

1 AGREEMENT FOR PROVISION OF  
2 EARLY CHILDHOOD MENTAL HEALTH CONSULTATION SERVICES  
3 BETWEEN  
4 COUNTY OF ORANGE  
5 AND  
6 CHARITABLE VENTURES OF ORANGE COUNTY  
7 MARCH 15, 2020 THROUGH JUNE 30, 2022  
8

9 THIS AGREEMENT entered into this 15th day of March 2020 (effective date), is by and between  
10 the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY) and  
11 CHARITABLE VENTURES OF ORANGE COUNTY, a California nonprofit corporation  
12 (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually  
13 as "Party" or collectively as "Parties." This Agreement shall be administered by the Director of the  
14 COUNTY's Health Care Agency or an authorized designee ("ADMINISTRATOR").  
15

16 **W I T N E S E T H:**  
17

18 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Early  
19 Childhood Mental Health Consultation Services described herein to the residents of Orange County; and  
20

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

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

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**REFERENCED CONTRACT PROVISIONS**

**Term:** March 15, 2020 through June 30, 2022

Period One means the period from March 15, 2020 through June 30, 2020

Period Two means the period from July 1, 2020 through June 30, 2021

Period Three means the period from July 1, 2021 through June 30, 2022

**Maximum Obligation:**

Period One Maximum Obligation:	\$ 280,603
Period Two Maximum Obligation:	859,698
Period Three Maximum Obligation:	<u>859,698</u>
TOTAL MAXIMUM OBLIGATION:	\$1,999,999

**Basis for Reimbursement:** Actual Cost

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS Number:** 02-208-4889

**CONTRACTOR TAX ID Number:** 20-8756660

**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:** Charitable Ventures of Orange County  
4041 MacArthur Blvd., Suite 510  
Newport Beach, CA 92660  
Anne Olin, President and CEO  
anne.olin@charitableventuresoc.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. ARRA American Recovery and Reinvestment Act
- B. CAP Corrective Action Plan
- C. CCC California Civil Code
- D. CCR California Code of Regulations
- E. CEO County Executive Office
- F. CFR Code of Federal Regulations
- G. CHPP COUNTY HIPAA Policies and Procedures
- H. COI Certificate of Insurance
- I. CRN Crisis Response Network
- J. DHCS Department of Health Care Services
- K. DRS Designated Record Set
- L. EOC Equal Opportunity Clause
- M. EOE Equal Opportunity Employer
- N. GAAP General Accepted Accounting Principles
- O. HCA Health Care Agency
- P. HHS Health and Human Services
- Q. HITECH Health Information Technology for Economic and Clinical Act,  
Public Law 111-005
- R. HIPAA Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
- S. HSC California Health and Safety Code
- T. ISO Insurance Services Office
- U. MHSA Mental Health Services Act
- V. NPP Notice of Privacy Practices
- W. OIG Office of Inspector General
- X. OMB Office of Management and Budget
- Y. OPM Federal Office of Personnel Management
- Z. PC State of California Penal Code
- AA. PEI Prevention and Early Intervention
- AB. PHI Protected Health Information
- AC. PII Personally Identifiable Information
- AD. P&P Policy and Procedure
- AE. PRA Public Record Act
- AF. SIR Self-Insured Retention
- AG. SFTS Safe from the Start

- 1 AH. TOT Train the Trainer
- 2 AI. USC United States Code
- 3 AJ. VPE Violence Prevention Education
- 4 AK. WIC State of California Welfare and Institutions Code

6 **II. ALTERATION OF TERMS**

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

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

14 **III. ASSIGNMENT OF DEBTS**

15 Unless this Agreement is followed without interruption by another Agreement between the Parties  
16 hereto for the same services and substantially the same scope, at the termination of this Agreement,  
17 CONTRACTOR shall assign to COUNTY any debts owing to CONTRACTOR by or on behalf of  
18 persons receiving services pursuant to this Agreement. CONTRACTOR shall immediately notify by  
19 mail each of the respective Parties, specifying the date of assignment, the County of Orange as assignee,  
20 and the address to which payments are to be sent. Payments received by CONTRACTOR from or on  
21 behalf of said persons, shall be immediately given to COUNTY.  
22

23 **IV. COMPLIANCE**

24 A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for  
25 the purpose of ensuring adherence to all rules and regulations related to federal and state health care  
26 programs.  
27

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

31 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own  
32 compliance program, code of conduct and any compliance related policies and procedures.  
33 CONTRACTOR's compliance program, code of conduct and any related policies and procedures shall  
34 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required  
35 elements by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to  
36 this Agreement. These elements include:

- 37 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 does not provide proof of its own compliance program to ADMINISTRATOR, CONTRACTOR shall internally comply with ADMINISTRATOR’s Compliance Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement a signed acknowledgement that CONTRACTOR will internally comply with ADMINISTRATOR’s Compliance Program and Code of Conduct. CONTRACTOR shall have as many Covered Individuals it determines necessary complete ADMINISTRATOR’s annual compliance training to ensure proper compliance.

4. If CONTRACTOR elects to have its own compliance program, code of conduct and any Compliance related policies and procedures reviewed by ADMINISTRATOR, then CONTRACTOR shall submit a copy of its compliance program, code of conduct and all relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of 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. ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and CONTRACTOR shall revise its compliance program and code of conduct to meet 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, 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 of conduct, related policies and procedures and contact information for the ADMINISTRATOR’s Compliance Program.

B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Agreement monthly 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

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1 California Medi-Cal Suspended and Ineligible Provider List, the Social Security Administration’s Death  
2 Master File, and/or any other list or system as identified by ADMINISTRATOR.

3 1. For purposes of this Compliance Paragraph, Covered Individuals includes all employees,  
4 interns, volunteers, contractors, subcontractors, agents, and other persons who provide health care items  
5 or services or who perform billing or coding functions on behalf of ADMINISTRATOR.  
6 CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of  
7 ADMINISTRATOR’s Compliance Program, Code of Conduct and related policies and procedures (or  
8 CONTRACTOR’s own compliance program, code of conduct and related policies and procedures if  
9 CONTRACTOR has elected to use its own).

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

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

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

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

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

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

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

36 7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or  
37 entity is currently excluded, suspended or debarred, or is identified as such after being sanction



1 screened. Such individual or entity shall be immediately removed from participating in any activity  
2 associated with this Agreement. ADMINISTRATOR will determine appropriate repayment from, or  
3 sanction(s) to CONTRACTOR for services provided by ineligible person or individual.

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

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

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

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

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

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

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

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

23 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered  
24 Individuals relative to this Agreement. This includes compliance with federal and state healthcare  
25 program regulations and procedures or instructions otherwise communicated by regulatory agencies;  
26 including the Centers for Medicare and Medicaid Services or their agents.

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

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

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

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

36 E. MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS  
37 //

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

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

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

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

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

17 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and  
18 participate in the quality improvement activities developed in the implementation of the Quality  
19 Management Program.

20 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR’s Cultural  
21 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural  
22 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,  
23 §1810.410.subds.(c)-(d)).

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

31 **V. CONFIDENTIALITY**

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

35 B. Prior to providing any services pursuant to this Agreement, all members of the Board of  
36 Directors or its designee or authorized agent, employees, consultants, subcontractors, volunteers and  
37 interns of the CONTRACTOR shall agree, in writing, with CONTRACTOR to maintain the

1 confidentiality of any and all information and records which may be obtained in the course of providing  
2 such services. This Agreement shall specify that it is effective irrespective of all subsequent  
3 resignations or terminations of CONTRACTOR members of the Board of Directors or its designee or  
4 authorized agent, employees, consultants, subcontractors, volunteers and interns.

5  
6 **VI. COST REPORT**

7 A. CONTRACTOR shall submit separate Cost Reports for Period One, Period Two and Period  
8 Three, or for a portion thereof, to COUNTY no later than sixty (60) calendar days following the period  
9 for which they are prepared or termination of this Agreement. CONTRACTOR shall prepare the Cost  
10 Report in accordance with all applicable federal, state and COUNTY requirements, GAAP and the  
11 Special Provisions Paragraph of this Agreement. CONTRACTOR shall allocate direct and indirect  
12 costs to and between programs, cost centers, services, and funding sources in accordance with such  
13 requirements and consistent with prudent business practice, which costs and allocations shall be  
14 supported by source documentation maintained by CONTRACTOR, and available at any time to  
15 ADMINISTRATOR upon reasonable notice.

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

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

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

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

30 3. In the event that CONTRACTOR does not submit an accurate and complete Cost Report  
31 within one hundred and eighty (180) calendar days following the termination of this Agreement, and  
32 CONTRACTOR has not entered into a subsequent or new agreement for any other services with  
33 COUNTY, CONTRACTOR may be assessed a late penalty of \$500 dollars for each business day after  
34 the above specified due date that an accurate and complete Cost Report is not submitted. No more than  
35 \$100,000 shall be assessed per Cost Report. Imposition of the late penalty shall be at the sole discretion  
36 of the ADMINISTRATOR. The late penalty shall be assessed separately on each outstanding Cost  
37 Report due the COUNTY by CONTRACTOR.

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

6 C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder,  
7 less applicable revenues and any late penalty, not to exceed COUNTY's Maximum Obligation as set  
8 forth in the Referenced Contract Provisions of this Agreement. CONTRACTOR shall not claim  
9 expenditures to COUNTY which are not reimbursable pursuant to applicable federal, state and  
10 COUNTY laws, regulations and requirements. Any payment made by COUNTY to CONTRACTOR,  
11 which is subsequently determined to have been for an unreimbursable expenditure or service, shall be  
12 repaid by CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30)  
13 calendar days of submission of the Cost Report or COUNTY may elect to reduce any amount owed  
14 CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

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

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

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

28  
29 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and  
30 supporting documentation prepared by \_\_\_\_\_ for the cost report period  
31 beginning \_\_\_\_\_ and ending \_\_\_\_\_ and that, to the best of my  
32 knowledge and belief, costs reimbursed through this Agreement are reasonable and  
33 allowable and directly or indirectly related to the services provided and that this Cost  
34 Report is a true, correct, and complete statement from the books and records of  
35 (provider name) in accordance with applicable instructions, except as noted. I also  
36 hereby certify that I have the authority to execute the accompanying Cost Report.

37 //

1 Signed \_\_\_\_\_  
 2 Name \_\_\_\_\_  
 3 Title \_\_\_\_\_  
 4 Date \_\_\_\_\_"

6 **VII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

12 B. CONTRACTOR agrees that if there is a change or transfer in ownership of CONTRACTOR's  
13 business prior to completion of this Agreement, and COUNTY agrees to an assignment of the  
14 Agreement, the new owners shall be required under the terms of sale or other instruments of transfer to  
15 assume CONTRACTOR's duties and obligations contained in this Agreement and complete them to the  
16 satisfaction of COUNTY. CONTRACTOR may not assign the rights hereunder, either in whole or in  
17 part, without the prior written consent of COUNTY.

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

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

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

35 4. Whether CONTRACTOR is a nonprofit, for-profit, or a governmental organization,  
36 CONTRACTOR shall provide written notification of CONTRACTOR's intent to assign the obligations

37 //

1 hereunder, either in whole or part, to ADMINISTRATOR not less than sixty (60) calendar days prior to  
2 the effective date of the assignment.

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

7 6. COUNTY reserves the right to immediately terminate the Agreement in the event  
8 COUNTY determines, in its sole discretion, that the assignee is not qualified or is otherwise  
9 unacceptable to COUNTY for the provision of services under the Agreement.

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

15 1. After approval of the subcontractor, ADMINISTRATION may revoke the approval of the  
16 subcontractor upon five (5) calendar days' written notice to CONTRACTOR if the subcontractor  
17 subsequently fails to meet the requirements of this Agreement or any provisions that  
18 ADMINISTRATOR has required. ADMINISTRATOR may disallow subcontractor expenses reported  
19 by CONTRACTOR.

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

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

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

27 D. CONTRACTOR shall notify COUNTY in writing of any change in the CONTRACTOR's  
28 status with respect to name changes that do not require an assignment of the Agreement.  
29 CONTRACTOR is also obligated to notify COUNTY in writing if the CONTRACTOR becomes a party  
30 to any litigation against COUNTY, or a party to litigation that may reasonably affect the  
31 CONTRACTOR's performance under the Contract, as well as any potential conflicts of interest between  
32 CONTRACTOR and County that may arise prior to or during the period of Agreement performance.  
33 While CONTRACTOR will be required to provide this information without prompting from COUNTY  
34 any time there is a change in CONTRACTOR's name, conflict of interest or litigation status,  
35 CONTRACTOR must also provide an update to COUNTY of its status in these areas whenever  
36 requested by COUNTY.

37 //

**VIII. EMPLOYEE ELIGIBILITY VERIFICATION**

CONTRACTOR attests 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 (1) 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 written approval prior to purchase of 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,

//

1 and shall include the original purchase date and price, useful life, and balance of depreciated Equipment  
2 cost, if any.

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

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

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

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

16  
17 **X. FACILITIES, PAYMENTS AND SERVICES**

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

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

27  
28 **XI. INDEMNIFICATION AND INSURANCE**

29 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,  
30 and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special  
31 districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board  
32 ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature,  
33 including but not limited to personal injury or property damage, arising from or related to the services,  
34 products or other performance provided by CONTRACTOR pursuant to this Agreement. If judgment is  
35 entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the  
36 concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and

37 //



1 COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall  
2 request a jury apportionment.

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

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

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

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

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

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

33 E. If CONTRACTOR fails to maintain insurance acceptable to the COUNTY for the full term of  
34 this Agreement, the COUNTY may terminate this Agreement.

35 F. QUALIFIED INSURER

36 1. The policy or policies of insurance must be issued by an insurer with a minimum rating of  
37 A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current

1 | edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred,  
 2 | but not mandatory, that the insurer be licensed to do business in the state of California (California  
 3 | Admitted Carrier).

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

7 | G. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum  
 8 | 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
Sexual Misconduct Liability	\$1,000,000 per occurrence

24 | H. REQUIRED COVERAGE FORMS

25 | 1. The Commercial General Liability coverage shall be written on ISO form CG 00 01, or a  
 26 | substitute form providing liability coverage at least as broad.

27 | 2. The Business Automobile Liability coverage shall be written on ISO form CA 00 01,  
 28 | CA 00 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.

29 | I. REQUIRED ENDORSEMENTS

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

32 | a. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least  
 33 | as broad naming the *County of Orange, its elected and appointed officials, officers, agents and*  
 34 | *employees* as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY**  
 35 | **WRITTEN AGREEMENT.**

36 | //  
 37 | //

1 b. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at  
2 least as broad evidencing that the CONTRACTOR’s insurance is primary and any insurance or self-  
3 insurance maintained by the County of Orange shall be excess and non-contributing.

4 J. All insurance policies required by this Agreement shall waive all rights of subrogation against  
5 the County of Orange, its elected and appointed officials, officers, agents and employees when acting  
6 within the scope of their appointment or employment.

7 K. The Workers’ Compensation policy shall contain a waiver of subrogation endorsement waiving  
8 all rights of subrogation against the *County of Orange, its elected and appointed officials,*  
9 *officers, agents and employees,* or provide blanket coverage, which will state **AS REQUIRED BY**  
10 **WRITTEN AGREEMENT.**

11 L. All insurance policies required by this Agreement shall waive all rights of subrogation against  
12 the County of Orange, its elected and appointed officials, officers, agents and employees when acting  
13 within the scope of their appointment or employment.

14 M. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy  
15 cancellation and within ten (10) days for non-payment of premium and provide a copy of the  
16 cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a  
17 breach of CONTRACTOR’s obligation hereunder and ground for COUNTY to suspend or terminate  
18 this Agreement.

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

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

23 P. If the Contractor fails to provide the insurance certificates and endorsements within seven (7)  
24 days of notification by CEO/Purchasing or the agency/department purchasing division, award may be  
25 made to the next qualified vendor.

26 Q. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease  
27 insurance of any of the above insurance types throughout the term of this Agreement. Any increase or  
28 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to  
29 adequately protect COUNTY.

30 R. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If  
31 CONTRACTOR does not deposit copies of acceptable Certificate of Insurance and endorsements with  
32 COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice,  
33 this Agreement may be in breach without further notice to CONTRACTOR, and COUNTY shall be  
34 entitled to all legal remedies.

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

1 T. SUBMISSION OF INSURANCE DOCUMENTS

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

3 a. Prior to the start date of this Agreement.

4 b. No later than the expiration date for each policy.

5 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding  
6 changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.

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

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

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

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

20 c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from  
21 CONTRACTOR's monthly invoice.

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

25  
26 **XII. INSPECTIONS AND AUDITS**

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

37 //

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

5 C. AUDIT RESPONSE

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

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

18 D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare and file  
19 with ADMINISTRATOR, an annual, independent, organization-wide audit of related expenditures as  
20 may be required during the term of this Agreement.

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

25  
26 **XIII. LICENSES AND LAWS**

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

35 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

36 1. CONTRACTOR certifies it is in full compliance with all applicable federal and State  
37 reporting requirements regarding its employees and with all lawfully served Wage and Earnings

1 Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the  
2 term of the Agreement with the County of Orange. Failure to comply shall constitute a material breach  
3 of the Agreement and failure to cure such breach within sixty (60) calendar days of notice from the  
4 COUNTY shall constitute grounds for termination of the Agreement.

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

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

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

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

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

- 18 1. ARRA of 2009.
- 19 2. Trafficking Victims Protection Act of 2000.
- 20 3. WIC, Division 5, Community Mental Health Services.
- 21 4. WIC, Division 6, Admissions and Judicial Commitments.
- 22 5. WIC, Division 7, Mental Institutions.
- 23 6. HSC, §§1250 et seq., Health Facilities.
- 24 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 25 8. CCR, Title 9, Rehabilitative and Developmental Services.
- 26 9. CCR, Title 17, Public Health.
- 27 10. CCR, Title 22, Social Security.
- 28 11. CFR, Title 42, Public Health.
- 29 12. CFR, Title 45, Public Welfare.
- 30 13. USC Title 42. Public Health and Welfare.
- 31 14. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 32 15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 33 16. 42 USC §1857, et seq., Clean Air Act.
- 34 17. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 35 18. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 36 19. Policies and procedures set forth in Mental Health Services Act.
- 37 20. Policies and procedures set forth in DHCS Letters.

21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.

22. 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.

**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, are 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 the first full year of 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 Covered Individuals (as defined within the “Compliance”

1 paragraph of this Agreement) that directly or indirectly provide services pursuant to this Agreement, in  
2 any manner whatsoever. CONTRACTOR shall require and verify that all of its Covered Individuals  
3 providing services pursuant to this Agreement be paid no less than the greater of the federal or  
4 California Minimum Wage.

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

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

12  
13 **XVII. NONDISCRIMINATION**

14 A. EMPLOYMENT

15 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals (as  
16 defined in the “Compliance” paragraph of this Agreement) shall not unlawfully discriminate against any  
17 employee or applicant for employment because of his/her race, religious creed, color, national origin,  
18 ancestry, physical disability, mental disability, medical condition, genetic information, marital status,  
19 sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.  
20 Additionally, during the term of this Agreement, CONTRACTOR and its Covered Individuals shall  
21 require in its subcontracts that subcontractors shall not unlawfully discriminate against any employee or  
22 applicant for employment because of his/her race, religious creed, color, national origin, ancestry,  
23 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,  
24 gender identity, gender expression, age, sexual orientation, or military and veteran status.

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

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

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

35 5. All solicitations or advertisements for employees placed by or on behalf of  
36 CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration  
37 for employment without regard to race, religious creed, color, national origin, ancestry, physical



1 disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender  
2 identity, gender expression, age, sexual orientation, or military and veteran status. Such requirements  
3 shall be deemed fulfilled by use of the term EOE.

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

9 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not  
10 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities  
11 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental  
12 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender  
13 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the  
14 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights  
15 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9,  
16 Division 4, Chapter 6, Article 1 (§10800, et seq.) of the CCR; and Title II of the Genetic Information  
17 Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and  
18 regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all  
19 may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination  
20 paragraph, discrimination includes, but is not limited to the following based on one or more of the  
21 factors identified above:

- 22 1. Denying a Client or potential Client any service, benefit, or accommodation.
- 23 2. Providing any service or benefit to a Client which is different or is provided in a different  
24 manner or at a different time from that provided to other Clients.
- 25 3. Restricting a Client in any way in the enjoyment of any advantage or privilege enjoyed by  
26 others receiving any service and/or benefit.
- 27 4. Treating a Client differently from others in satisfying any admission requirement or  
28 condition, or eligibility requirement or condition, which individuals must meet in order to be provided  
29 any service and/or benefit.
- 30 5. Assignment of times or places for the provision of services.

31 C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all Clients  
32 through a written statement that CONTRACTOR's and/or subcontractor's Clients may file all  
33 complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and  
34 ADMINISTRATOR.

- 35 1. Whenever possible, problems shall be resolved informally and at the point of service.  
36 CONTRACTOR shall establish an internal informal problem resolution process for Clients not able to

37 //

1 resolve such problems at the point of service. Clients may initiate a grievance or complaint directly with  
2 CONTRACTOR either orally or in writing.

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

5 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply  
6 with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as  
7 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended  
8 (42 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of  
9 discrimination against qualified persons with disabilities in all programs or activities, and if applicable,  
10 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together  
11 with succeeding legislation.

12 E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents shall  
13 intimidate, coerce or take adverse action against any person for the purpose of interfering with rights  
14 secured by federal or state laws, or because such person has filed a complaint, certified, assisted or  
15 otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to  
16 enforce rights secured by federal or state law.

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

21  
22 **XVIII. NOTICES**

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

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

28 2. When faxed, transmission confirmed;

29 3. When sent by Email; or

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

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

36 C. CONTRACTOR shall notify ADMINISTRATOR, in writing, within twenty-four (24) hours of  
37 becoming aware of any occurrence of a serious nature, which may expose COUNTY to liability. Such

1 occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or  
2 damage to any COUNTY property in possession of CONTRACTOR.

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

5  
6 **XIX. NOTIFICATION OF DEATH**

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

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

12 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by  
13 telephone immediately upon becoming aware of the death due to non-terminal illness of any person  
14 served pursuant to this Agreement; notice need only be given during normal business hours.

15 2. WRITTEN NOTIFICATION

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

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

22 c. When notification via encrypted email is not possible or practical CONTRACTOR may  
23 hand deliver or fax to a known number said notification.

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

28  
29 **XX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

37 //

**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 ensure appropriate financial records related to cost reporting, expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately.

C. CONTRACTOR shall ensure all appropriate state and federal standards of documentation, preparation, and confidentiality of records related to Client records are met at all times.

D. 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.

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

F. 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.

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

H. 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. 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.

**XXIV. SPECIAL PROVISIONS**

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

- 1           1. Making cash payments to intended recipients of services through this Agreement.
- 2           2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications
- 3 and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on
- 4 use of appropriated funds to influence certain federal contracting and financial transactions).
- 5           3. Fundraising.
- 6           4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
- 7 CONTRACTOR’s staff, volunteers, interns, consultants, subcontractors, and members of the Board of
- 8 Directors or governing body.
- 9           5. Reimbursement of CONTRACTOR’s members of the Board of Directors or governing
- 10 body for expenses or services.
- 11           6. Making personal loans to CONTRACTOR’s staff, volunteers, interns, consultants,
- 12 subcontractors, and members of the Board of Directors or governing body, or its designee or authorized
- 13 agent, or making salary advances or giving bonuses to CONTRACTOR’s staff.
- 14           7. Paying an individual salary or compensation for services at a rate in excess of the current
- 15 Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary
- 16 Schedule may be found at [www.opm.gov](http://www.opm.gov).
- 17           8. Severance pay for separating employees.
- 18           9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building
- 19 codes and obtaining all necessary building permits for any associated construction.
- 20           10. Supplanting current funding for existing services.
- 21        B. Unless otherwise specified in advance and in writing by ADMINISTRATOR, CONTRACTOR
- 22 shall not use the funds provided by means of this Agreement for the following purposes:
- 23           1. Funding travel or training (excluding mileage or parking).
- 24           2. Making phone calls outside of the local area unless documented to be directly for the
- 25 purpose of Client care.
- 26           3. Payment for grant writing, consultants, certified public accounting, or legal services.
- 27           4. Purchase of artwork or other items that are for decorative purposes and do not directly
- 28 contribute to the quality of services to be provided pursuant to this Agreement.
- 29           5. Purchasing or improving land, including constructing or permanently improving any
- 30 building or facility, except for tenant improvements.
- 31           6. Providing inpatient hospital services or purchasing major medical equipment.
- 32           7. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal
- 33 funds (matching).
- 34           8. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
- 35 CONTRACTOR’s Clients.
- 36 //
- 37 //

**XXV. STATUS OF CONTRACTOR**

1  
2 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be  
3 wholly responsible for the manner in which it performs the services required of it by the terms of this  
4 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and  
5 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the  
6 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR  
7 or any of CONTRACTOR’s employees, agents, consultants, volunteers, interns, or subcontractors.  
8 CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents,  
9 consultants, volunteers, interns, or subcontractors as they relate to the services to be provided during the  
10 course and scope of their employment. CONTRACTOR, its agents, employees, consultants, volunteers,  
11 interns, or subcontractors, shall not be entitled to any rights or privileges of COUNTY’s employees and  
12 shall not be considered in any manner to be COUNTY’s employees.

13  
14 **XXVI. TERM**

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

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

23  
24 **XXVII. TERMINATION**

25 A. CONTRACTOR shall be responsible for meeting all programmatic and administrative  
26 contracted objectives and requirements as indicated in this Agreement. CONTRACTOR shall be  
27 subject to the issuance of a CAP for the failure to perform to the level of contracted objectives,  
28 continuing to not meet goals and expectations, and/or for non-compliance. If CAPs are not completed  
29 within timeframe as determined by ADMINISTRATOR notice, payments may be reduced or withheld  
30 until CAP is resolved and/or the Agreement could be terminated.

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

- 33 1. The loss by CONTRACTOR of legal capacity.
- 34 2. Cessation of services.
- 35 3. The delegation or assignment of CONTRACTOR’s services, operation or administration to  
36 another entity without the prior written consent of COUNTY.

37 //

1 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty  
2 required pursuant to this Agreement.

3 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of  
4 this Agreement.

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

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

11 C. CONTINGENT FUNDING

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

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

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

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

21 D. In the event this Agreement is suspended or terminated prior to the completion of the term as  
22 specified in the Referenced Contract Provisions of this Agreement, ADMINISTRATOR may, at its  
23 sole discretion, reduce the Not To Exceed Amount of this Agreement to be consistent with the reduced  
24 term of the Agreement.

25 E. In the event this Agreement is terminated CONTRACTOR shall do the following:

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

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

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

32 4. If Clients are to be transferred to another facility for services, furnish ADMINISTRATOR,  
33 upon request, all Client information and records deemed necessary by ADMINISTRATOR to effect an  
34 orderly transfer.

35 5. Assist ADMINISTRATOR in effecting the transfer of Clients in a manner consistent with  
36 Client's best interests.

37 //

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

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

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

11 9. Provide written notice of termination of services to each Client being served under this  
12 Agreement, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of  
13 termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendar  
14 day period.

15 F. COUNTY may terminate this Agreement, without cause, upon thirty (30) calendar days' written  
16 notice. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be  
17 exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.

18  
19 **XXVIII. THIRD PARTY BENEFICIARY**

20 Neither Party hereto intends that this Agreement shall create rights hereunder in third parties  
21 including, but not limited to, any subcontractors or any Clients provided services pursuant to this  
22 Agreement.

23  
24 **XXIX. WAIVER OF DEFAULT OR BREACH**

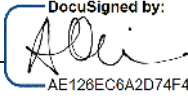
25 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any  
26 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this  
27 Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any  
28 default or any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

30 //  
31 //  
32 //  
33 //  
34 //  
35 //  
36 //  
37 //



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

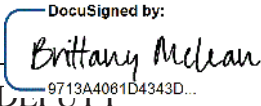
3  
4 CHARITABLE VENTURES OF ORANGE COUNTY

5  
6 BY:  \_\_\_\_\_ DATED: 1/10/2020  
7  
8  
9 TITLE: President & CEO

10  
11  
12  
13  
14  
15 COUNTY OF ORANGE

16  
17  
18 BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
19 HEALTH CARE AGENCY

20  
21  
22  
23  
24 APPROVED AS TO FORM  
25 OFFICE OF THE COUNTY COUNSEL  
26 ORANGE COUNTY, CALIFORNIA

27  
28 BY:  \_\_\_\_\_ DATED: 1/10/2020  
29  
30

31  
32  
33  
34 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the  
35 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer  
36 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution  
37 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.

1 EXHIBIT A  
2 AGREEMENT FOR PROVISION OF  
3 EARLY CHILDHOOD MENTAL HEALTH CONSULTATION SERVICES  
4 MENTAL HEALTH EDUCATIONAL ACTIVITIES  
5 BETWEEN  
6 COUNTY OF ORANGE  
7 AND  
8 CHARITABLE VENTURES OF ORANGE COUNTY  
9 MARCH 15, 2020 THROUGH JUNE 30, 2022

10  
11 **I. COMMON TERMS AND DEFINITIONS**

12 The parties agree to the following terms and definitions, and to those terms and definitions which,  
13 for convenience, are set forth elsewhere in the Agreement.

14 A. Admission means completion of the entry and/or intake process for program Participants.

15 B. Assessment means a professional review and evaluation of an individual’s behavioral health  
16 needs and conditions in order to determine the most appropriate course of services.

17 C. At Risk means a state of high stressor and low protective factor that would increase likelihood  
18 of development of a mental illness.

19 D. Behavioral Health Condition means diminished cognitive, emotional, or social abilities, but not  
20 to the extent that the criteria for a mental disorder are met.

21 E. Case Management means the delivery of individual guidance and support services. Case  
22 Management services include; but are not limited to, referrals and linkages to needed services such as:  
23 resources, coaching, and assistance with translation and transportation.

24 F. Early Development Index is a validated and reliable school readiness measurement tool that  
25 provides population-level data on a child’s social and emotional well-being. It measures five (5)  
26 developmental areas including communications skills, language and cognitive development, social  
27 competence, physical health and well-being and emotional maturity.

28 G. Enrollment means the data entry of Participant’s information the program’s Prevention and  
29 Intervention Database for purposes of record keeping, quality improvement, and outcome evaluation.

30 H. Evaluation means the systematic investigation of the value and impact of an intervention or  
31 program.

32 I. Evidence-based Practice means the range of treatment and services of well-documented  
33 effectiveness. An evidence-based practice has quantitative and qualitative data showing positive  
34 outcomes and has been subject to expert/peer review that has determined that a particular approach or  
35 strategy has a significant level of evidence of effectiveness.

36 J. Family Member means any traditional and/or non-traditional support system, significant other,  
37 or natural support designated by the Participant.

1 K. Georgetown Model means an evidence-based model for early childhood mental health  
2 consultation developed by Georgetown University. Trained mental health professionals with specialized  
3 training in early childhood development consult with early childhood care providers and families to  
4 increase their skills and expertise to improve the social emotional competencies of infants and young  
5 children.

6 L. Intake means the initial enrollment meeting between a Participant and a worker to evaluate a  
7 Participant’s issue(s) of concern and determine how a program could best meet his/her needs.

8 M. Level of Well-being means the state of satisfaction, happiness, and/or in control that a  
9 Participant feels about his/her present situation/condition as measured by a validated instrument/scale.

10 N. Linkage means when an individual is connected to programs or services and confirmation that  
11 the first appointment has been attended.

12 O. MHSA means the law that provides funding for expanded community mental health services,  
13 also known as Proposition 63.

14 P. Notice of Privacy Practices (NPP) means a document that notifies individuals of uses and  
15 disclosures of PHI that may be made by or on behalf of the health plan or health care provider as set  
16 forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

17 Q. Outreach means contact with potential Participants to link them to appropriate behavioral health  
18 and supportive services; which may include activities that educate the community about services offered  
19 and requirements for participation in the program.

20 R. Participant means an individual enrolled in a program who engages in activities aimed at  
21 preventing and/or eliminating the development of Behavioral Health Condition.

22 S. PII means any information that could be readily used to identify a specific person, including but  
23 not limited to: name, address, telephone number, email address, driver's license number, Social Security  
24 number, bank account information, credit card information, or any combination of data that could be  
25 used to identify a specific person, such as birth date, zip code, mother's maiden name and gender.

26 T. Prevention means the group or individual interventions that occur before the initial onset of a  
27 Behavioral Health Condition. Prevention promotes positive cognitive, social, and emotional  
28 development and encourages a state of well-being that allows the individuals to function well in the face  
29 of changing and sometimes challenging circumstances.

30 U. PEI means the most recent County of Orange MHSA Prevention and Early Intervention Plan  
31 approved by the Orange County MHSA Steering Committee and Board of Supervisors.

32 V. PHI means individually identifiable health information usually transmitted by electronic media  
33 maintained in any medium as defined in the regulations or for an entity, such as a health plan,  
34 transmitted or maintained in any other medium. It is created or received by a covered entity and relates  
35 to the past, present, or future physical or Behavioral Health Condition of an individual, provision of  
36 health care to an individual, or the past, present, or future payment for health care provided to an  
37 individual.

1 W. Pyramid Model means a tiered framework of evidence-based interventions along the mental  
 2 health continuum for promoting social, emotional and behavioral development of infants and young  
 3 children.

4 X. Referral means an individual receives information or contacts for services or programs, or an  
 5 unsuccessful Linkage attempt.

6 Y. Training means the action or method used to transfer skills and/or knowledge to a target  
 7 audience.

8 Z. Trauma-Exposed Individuals means those who are exposed to traumatic events or prolonged  
 9 traumatic conditions, including grief, loss and isolation, including those who are unlikely to seek help  
 10 from any traditional mental health service.

11 AA. Unduplicated Participant means an individual who is counted only once, despite how many  
 12 programs the individual is enrolled in during a contractual agreement period. For example; if a  
 13 Participant receives individual and group services, they can only be counted once.

14 AB. Units of Service mean the number and/or type of activities the CONTRACTOR will fulfill  
 15 during a contractual agreement period.

16  
 17 **II. BUDGET**

18 COUNTY shall pay CONTRACTOR in accordance with the Payments Paragraph in this Exhibit A  
 19 to the Agreement and the following budgets, which are set forth for informational purposes only and  
 20 may be adjusted by mutual agreement, in writing, by ADMINISTRATOR and CONTRACTOR.

	<u>PERIOD</u>	<u>PERIOD</u>	<u>PERIOD</u>	<u>TOTAL</u>
	<u>ONE</u>	<u>TWO</u>	<u>THREE</u>	
22 ADMINISTRATIVE COSTS				
25 Professional Services	\$ 2,042	\$ 7,000	\$ 7,000	\$ 16,042
26 Indirect Costs	<u>30,114</u>	<u>103,255</u>	<u>103,255</u>	<u>236,624</u>
27 SUBTOTAL	\$ 32,156	\$ 110,255	\$ 110,255	\$ 252,666
28 ADMINISTRATIVE COSTS				
30 PROGRAM COSTS				
31 Salaries	\$ 156,573	\$ 536,821	\$ 536,821	\$ 1,230,215
32 Benefits	31,315	107,364	107,364	246,043
33 Services and Supplies	30,263	103,758	103,758	237,779
34 Subcontractor	438	1,500	1,500	3,438
35 Start-Up Costs	<u>29,858</u>	<u>0</u>	<u>0</u>	<u>29,858</u>
36 SUBTOTAL PROGRAM COSTS	\$ 248,447	\$ 749,443	\$ 749,443	\$ 1,747,333
37				

1	TOTAL GROSS COSTS	\$ 280,603	\$ 859,698	\$ 859,698	\$ 1,999,999
2					
3	REVENUE				
4	MHSAs	<u>280,603</u>	<u>859,698</u>	<u>859,698</u>	<u>\$ 1,999,999</u>
5	TOTAL REVENUE	\$ 280,603	\$ 859,698	\$ 859,698	\$ 1,999,999
6					
7	MAXIMUM OBLIGATION	\$ 280,603	\$ 859,698	\$ 859,698	\$ 1,999,999

9       B. BUDGET/STAFFING MODIFICATIONS – CONTRACTOR may request to shift funds  
10 between budgeted line items for the purpose of meeting specific program needs or for providing  
11 continuity of care to its Participants, by utilizing a Budget/Staffing Modification Request form provided  
12 by ADMINISTRATOR. CONTRACTOR shall submit a properly completed Budget/Staffing  
13 Modification Request to ADMINISTRATOR for consideration, in advance, which shall include a  
14 justification narrative specifying the purpose of the request, the amount of said funds to be shifted, and  
15 the sustaining annual impact of the shift as may be applicable to the current contract period and/or future  
16 contract periods. CONTRACTOR shall obtain written approval of any Budget/Staffing Modification  
17 Request(s) from ADMINISTRATOR prior to implementation by CONTRACTOR. Failure of  
18 CONTRACTOR to obtain written approval from ADMINISTRATOR for any proposed Budget/Staffing  
19 Modification Request(s) may result in disallowance of those costs.

20       C. FINANCIAL RECORDS – CONTRACTOR shall prepare and maintain accurate and complete  
21 financial records of its cost and operating expenses. Such records will reflect the actual cost of the type  
22 of service for which payment is claimed. Any apportionment of or distribution of costs, including  
23 indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will  
24 be made in accordance with GAAP.

25       D. CONTRACTOR shall provide effective Administrative management of the budget, staffing,  
26 recording, and reporting portion of the Agreement with the COUNTY. If administrative responsibilities  
27 are delegated to subcontractors, CONTRACTOR must ensure that any subcontractor(s) possess the  
28 qualifications and capacity to perform all delegated responsibilities. These responsibilities include, but  
29 are not limited, to the following:

- 30           1. Designate the responsible position(s) in your organization for managing the funds allocated
- 31 to the program;
- 32           2. Maximize the use of the allocated funds;
- 33           3. Ensure timely and accurate reporting of monthly expenditures;
- 34           4. Maintain appropriate staffing levels;
- 35           5. Request budget and/or staffing modifications to the Agreement;
- 36           6. Effectively communicate and monitor the program for its success;
- 37           7. Track and report expenditures electronically;

1 8. Maintain electronic and telephone communication between CONTRACTOR and  
2 ADMINISTRATOR; and

3 9. Act quickly to identify and solve problems.

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

6  
7 **III. PAYMENTS**

8 A. COUNTY shall pay CONTRACTOR monthly, in arrears, the provisional amounts of \$80,172  
9 per month for Period One and \$71,642 per month for Periods Two and Three as specified in the  
10 Referenced Contract Provisions of the Agreement. All payments are interim payments only, and subject  
11 to Final Settlement in accordance with the Cost Report Paragraph of the Agreement for which  
12 CONTRACTOR shall be reimbursed for the actual cost of providing the services hereunder; provided,  
13 however, the total of such payments does not exceed COUNTY's Maximum Obligation as specified in  
14 the Referenced Contract Provisions of the Agreement and, provided further, CONTRACTOR's costs are  
15 reimbursable pursuant to COUNTY, state, and federal regulations. ADMINISTRATOR may, at its  
16 discretion, pay supplemental invoices for any month for which the provisional amount specified above  
17 has not been fully paid.

18 1. In support of the monthly invoice, CONTRACTOR shall submit an Expenditure and  
19 Revenue Report as specified in the Reports Paragraph of this Exhibit A to the Agreement.  
20 ADMINISTRATOR shall use the Expenditure and Revenue Report to determine payment to  
21 CONTRACTOR as specified in Subparagraphs A.2. and A.3., below.

22 2. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the  
23 provisional amount payments exceed the actual cost of providing services, ADMINISTRATOR may  
24 reduce payments to CONTRACTOR by an amount not to exceed the difference between the  
25 year-to-date provisional amount payments to CONTRACTOR's and the year-to-date actual cost  
26 incurred by CONTRACTOR.

27 3. If, at any time, CONTRACTOR's Expenditure and Revenue Reports indicate that the  
28 provisional amount payments are less than the actual cost of providing services, ADMINISTRATOR  
29 may authorize an increase in the provisional amount payment to CONTRACTOR by an amount not to  
30 exceed the difference between the year-to-date provisional amount payments to CONTRACTOR and  
31 the year-to-date actual cost incurred by CONTRACTOR.

32 B. CONTRACTOR's invoices shall be on a form approved or supplied by ADMINISTRATOR  
33 and provide such information as is required by ADMINISTRATOR. Invoices are due the tenth (10th)  
34 day of each month. Invoices received after the due date may not be paid within the same month.  
35 Payments to CONTRACTOR should be released by COUNTY no later than thirty (30) calendar days  
36 after receipt of the correctly completed invoice.

37 //

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

4 D. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply  
5 with any provision of the Agreement.

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

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

11  
12 **IV. REPORTS**

13 **A. FISCAL**

14 1. CONTRACTOR shall submit monthly Expenditure and Revenue Reports to  
15 ADMINISTRATOR. These reports shall be on a form acceptable to, or provided by,  
16 ADMINISTRATOR and shall report actual costs and revenues for CONTRACTOR's program described  
17 in the Services Paragraph of this Exhibit A to the Agreement. Any changes, modifications, or  
18 deviations to any approved budget line item must be approved in advance and in writing by  
19 ADMINISTRATOR and annotated on the monthly Expenditure and Revenue Report, or said cost  
20 deviations may be subject to disallowance. Such reports shall be received by ADMINISTRATOR no  
21 later than twenty (20) calendar days following the end of the month being reported.

22 2. CONTRACTOR shall submit Year-End Projection Reports to ADMINISTRATOR. These  
23 reports shall be on a form acceptable to, or provided by, ADMINISTRATOR and shall report  
24 anticipated year-end actual costs and revenues for CONTRACTOR’s program described in the Services  
25 Paragraph of this Exhibit A to the Agreement. Such reports shall include actual monthly costs and  
26 revenue to date and anticipated monthly costs and revenue to the end of the fiscal year, and shall include  
27 a projection narrative justifying the year-end projections. Year-End Projection Reports shall be  
28 submitted in conjunction with the Monthly Expenditure and Revenue Reports.

29 **B. STAFFING REPORT –** CONTRACTOR shall submit monthly Staffing Reports to  
30 ADMINISTRATOR. CONTRACTOR’s reports shall contain required information, and be on a form  
31 acceptable to, or provided by ADMINISTRATOR. CONTRACTOR shall submit these reports no later  
32 than twenty (20) calendar days following the end of the month being reported.

33 **C. PROGRAMMATIC –** CONTRACTOR shall submit monthly Programmatic reports to  
34 ADMINISTRATOR. These reports shall be in a format approved by ADMINISTRATOR and shall  
35 include but not limited to, descriptions of any performance objectives, outcomes, and or interim findings  
36 as directed by ADMINISTRATOR. CONTRACTOR shall be prepared to present and discuss the  
37 programmatic reports at the monthly meetings with ADMINISTRATOR, to include whether or not

1 CONTRACTOR is progressing satisfactorily and if not, specify what steps are being taken to achieve  
2 satisfactory progress. Such reports shall be received by ADMINISTRATOR no later than twentieth  
3 (20th) calendar day following the end of the month being reported.

4 D. ADDITIONAL REPORTS - Upon ADMINISTRATOR’s request, CONTRACTOR shall make  
5 such additional reports as required by ADMINISTRATOR concerning CONTRACTOR's activities as  
6 they affect the services hereunder. ADMINISTRATOR shall be specific as to the nature of information  
7 requested and allow thirty (30) calendar days for CONTRACTOR to respond.

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

10  
11 **V. SERVICES**

12 **A. FACILITIES**

13 1. CONTRACTOR shall maintain facility/(ies) for the provision of Early Childhood Mental  
14 Health Consultation services described herein at the following location(s), or any other location  
15 approved, in advance, in writing, by ADMINISTRATOR. The facility shall include space to support the  
16 services identified within the Agreement.

17  
18 4041 MacArthur Blvd. Suite 510  
19 Newport Beach, CA 92660  
20

21 2. CONTRACTOR shall maintain regularly scheduled service hours, Monday through Friday  
22 8:00 a.m. – 5:00 p.m. throughout the year, and maintain the capability to provide services outside of  
23 these business hours in order to accommodate participants unable to participate during regular business  
24 hours. CONTRACTOR’s holiday schedule shall be consistent with COUNTY’s holiday schedule  
25 unless otherwise approved in advance and in writing by ADMINISTRATOR.

26 3. CONTRACTOR shall also provide services in community-based facilities including but not  
27 limited to licensed and license-exempt childcare centers, family childcare homes, preschools, and other  
28 early childhood education centers throughout all regional areas of COUNTY, for more effective  
29 provision of services to the participants.

30 **B. EARLY CHILDHOOD MENTAL HEALTH CONSULTATION SERVICES**

31 1. CONTRACTOR shall provide Early Childhood Mental Health Consultation Services to  
32 support the effective management of challenging behaviors of infants and preschool children up to five  
33 (5) years old, particularly those exhibiting problematic behaviors and are at risk of mental illness in  
34 Early Childhood and Education (ECE) settings throughout Orange County. Consultation services shall  
35 be designed to educate and build capacity, increase knowledge and awareness of early childhood  
36 educators to provide appropriate behavior support for those exhibiting ongoing challenging behaviors,  
37 //



1 and promote development of healthy identities in young children. Consultation services shall include  
2 consultation, practice-based coaching, direct observation and follow-up support.

3 2. Early Childhood Mental Health Consultation Services shall be provided to ECE providers  
4 including licensed providers, license exempt childcare centers, and licensed family childcare homes.  
5 ECE providers will be selected based on the following criteria: 1) Areas of the county with the highest  
6 vulnerability in social and emotional development based on the Early Development Index (EDI), a  
7 population-based measure of early child development 2) ECE sites who have identified children with  
8 challenging behaviors and are at risk of expulsions and 3) ECE providers who may not have access to  
9 other state or federal funding.

10 3. CONTRACTOR shall utilize a practice-based mental health consultation model that utilizes  
11 a systematic evidence-based and trauma-informed approach to building the skills and expertise of the  
12 ECE providers and family members. These practices shall include but not be limited to, the Georgetown  
13 model and the Pyramid model. CONTRACTOR shall be responsible for developing the consultation  
14 and coaching materials that are age-appropriate to be part of a “tool-box” of strategies that ECE  
15 providers can select from.

16 4. CONTRACTOR staff will pair up with the ECE provider for consultation and coaching.  
17 Consultation and coaching will be individualized depending upon each child’s behavior and integrated  
18 within the daily interactions of the ECE provider and the children and their families. Direct observation  
19 of a child’s behaviors, interaction between ECE provider and the child follow-up support will be part of  
20 coaching.

21 5. Consultation services will include multi-tiered support and be provided for three (3) to six  
22 (6) months. Consultation will include six (6) components:

23 a. Initiation: Once a referral for services is received, CONTRACTOR shall determine  
24 readiness and eligibility of ECE provider for services. CONTRACTOR shall meet with the ECE  
25 provider to initiate the consultation process and, review the Participation Guidelines and Commitment  
26 packet with the ECE provider.

27 b. Needs Assessment: CONTRACTOR shall ensure that ECE providers complete the  
28 Early Childhood Benchmarks of Quality (EC-BoQ) Provider Questionnaire, as well as other data  
29 collection tools to determine the course and level of service needed.

30 c. Collaborative Action Plan: CONTRACTOR shall ensure that ECE providers complete  
31 a Collaborative Action Plan to determine the goals and areas of focus for consultation services.

32 d. Plan Implementation: CONTRACTOR shall guide the participants to implement the  
33 identified goals in the Collaborative Action Plan. CONTRACTOR shall monitor the Participants’  
34 progress toward the established goals and provide ongoing support to ECE providers as deemed  
35 necessary.

36 e. Sustainability and Transition Plan: CONTRACTOR shall collaborate with the ECE  
37 providers in the development of the Transition and Sustainability Plan for identifying the ECE

1 program’s strengths and areas of need, resources, strategies, and steps for continuous improvement,  
2 timeline, as well as person(s) responsible. CONTRACTOR’s staff shall follow-up with Participants at  
3 three (3) and six (6) months following the completion of the Collaborative Action Plan.

4 f. Communities of Practice (CoP): To continually share experiences and build a trusted  
5 network of support within the provider community, CONTRACTOR shall facilitate collaborative  
6 learning groups. CoP’s shall be held in-person and via video conference on a monthly basis, to establish  
7 needs and gaps as determined by the participants.

8 6. CONTRACTOR shall provide culturally and linguistically appropriate Early Childhood  
9 Mental Health Consultation services to Orange County residents that are consistent with the COUNTY  
10 PEI Plan.

11 7. Referrals/Linkages: CONTRACTOR shall provide appropriate referrals and linkages for  
12 clinical assessments and other direct services if an individual child does not respond to the evidence-  
13 based practices and consultations. Participants and Participant families, as well as non-eligible  
14 individuals and their families, in need of services not provided under this Agreement, shall be referred to  
15 other organizations within their community, as appropriate for their specific needs. CONTRACTOR  
16 will ensure that all families in need of resources will receive referrals to community providers.  
17 CONTRACTOR’s staff shall follow-up with Participants and/or Participant families to confirm  
18 successful Linkages for referred services. CONTRACTOR shall confirm that the Participant family has  
19 attended the first appointment to be considered a successful linkage. CONTRACTOR shall report  
20 confirmed linkages to ADMINISTATOR on a monthly basis and upon request as needed.

21 8. CONTRACTOR shall promote the program by establishing relationships with child-  
22 focused organizations such as the Regional Center, hospitals, faith-based organizations, school sites and  
23 districts, community centers, behavioral health programs, early childhood educators, pediatricians,  
24 community-based organizations, especially those serving monolingual ethnic communities, FRCs, and  
25 other entities that can support Early Childhood Mental Health Consultation Services within the  
26 community. CONTRACTOR shall promote services throughout the COUNTY using a variety of  
27 strategies including but not limited to presentations and website promotions to educate the community  
28 about the services and to promote early childhood development.

29 9. CONTRACTOR shall actively collaborate with multiple organizations that provide  
30 children-focused services to young children and their families to ensure that the needs of the children  
31 and their families are addressed.

32 C. UNITS OF SERVICE

33 1. CONTRACTOR shall achieve, track, and report, at a minimum, the following units of  
34 service:

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	<b>Period One</b>	<b>Period Two</b>	<b>Period Three</b>
Childcare sites	30	100	100
ECE provider staff	75	250	250
Number of students	400	2,500	2,500

**D. OUTCOME MEASURES**

1. CONTRACTOR shall track and implement ADMINISTRATOR approved outcome measures. CONTRACTOR shall measure outcomes using pre- and post- tests at the onset and termination of services. Satisfaction surveys will be completed to measure level of satisfaction of services. CONTRACTOR shall complete all surveys, tools, and pre/post tests for measurement of outcomes of services, as requested by ADMINISTRATOR. Measurements shall include, but are not limited to, Director Initiation and Readiness Surveys, Consultant Logs, assessments, and interviews, pre-developed evidence-based assessment tools, including the Early Childhood Benchmarks of Quality (EC-BOQ) and Teaching Pyramid Observation Tool (T-POT), Parent and Teacher pre- and post-surveys, Site and Teacher Exit Surveys and Interviews and Referral Logs for individual children

2. CONTRACTOR shall be responsible for measuring and reporting outcome data on which priority populations are being reached, how the program is contributing to Participants’ Behavioral Health Conditions and Referrals and Linkages to other programs as appropriate.

3. CONTRACTOR shall complete all surveys, tools, and pre/post tests for measurement of outcomes of services, as requested by ADMINISTRATOR. CONTRACTOR shall measure and report on the outcomes of services in accordance with the following:

- a. On average, Participants will demonstrate a significant skill increase in management of challenging behaviors in young children and importance of their social-emotional development.
- b. On average, ECE providers will report fewer children who engage in ongoing, persistent challenging behaviors.
- c. On average, Parents will report an increase in their ability to address their child’s challenging behaviors and improved relationship with their child.
- d. On average, Target children will demonstrate an increase in pro-social behaviors, a decrease in challenging behaviors, and greater engagement in tasks/activities.

4. CONTRACTOR shall provide the COUNTY with monthly data reports, or as needed upon request of ADMINISTRATOR.

5. CONTRACTOR shall, on an ongoing basis and in partnership with ADMINISTRATOR, develop, modify, and incorporate different and/or additional outcome measurements, as approved by ADMINISTRATOR.

6. CONTRACTOR shall conduct on-going evaluations of the program and provide analysis to ADMINISTRATOR on a regular basis and in a format approved by ADMINISTRATOR.

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1 7. CONTRACTOR shall utilize ADMINISTRATOR approved forms to collect pertinent data,  
 2 which would be entered and analyzed for Participant’s level of satisfaction, program management, and  
 3 quality improvement purposes. In addition, CONTRACTOR shall utilize any data collection systems for  
 4 tracking Participant enrollment, demographics, trends, and service utilization. CONTRACTOR shall  
 5 provide the COUNTY with monthly data reports or as needed upon request.

6 8. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
 7 Services Paragraph of this Exhibit A to the Agreement.

8 9. CONTRACTOR shall develop a system to track and record the following demographics:  
 9 number of individuals served based on age groups; race and ethnicity; primary language; culture such as  
 10 lesbian, gay, bisexual, transgender, intersex, and questioning (LGBTIQ), veterans, and others such as  
 11 hearing impaired.

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 13 **VI. STAFFING**

14 A. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in Full-  
 15 Time Equivalents (FTEs) continuously throughout the term of the Agreement. One (1) FTE shall be  
 16 equal to an average of forty (40) hours work per week.

PROGRAM	<u>FTEs</u>
Program Manager	1.00
Training and Content Specialist	0.20
Early Childhood Mental Health Consultant	<u>5.00</u>
TOTAL FTEs	6.20

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 24 B. CONTRACTOR shall make best effort to include bilingual/bicultural services to meet the  
 25 diverse needs of the community threshold languages as determined by COUNTY. Whenever possible,  
 26 bilingual/bicultural staff should be recruited and retained. Any staffing vacancies occurring at a time  
 27 when bilingual and bicultural composition of the staffing does not meet the above requirement must be  
 28 filled with bilingual and bicultural staff unless ADMINISTRATOR consents, in writing, to the filling of  
 29 those positions with non-bilingual staff. Salary savings resulting from such vacant positions may not be  
 30 used to cover costs other than salaries and employees benefits unless otherwise authorized in writing, in  
 31 advance, by ADMINISTRATOR.

32 C. CONTRACTOR shall make its best effort to provide services pursuant to the Agreement in a  
 33 manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR  
 34 shall maintain documents of such efforts which may include; but not be limited to: records of  
 35 participation in COUNTY-sponsored or other applicable training; recruitment and hiring P&Ps; copies  
 36 of literature in multiple languages and formats, as appropriate; and descriptions of measures taken to  
 37 enhance accessibility for, and sensitivity to, individuals who are physically challenged.

1 D. CONTRACTOR is highly encouraged to augment the above paid staff with qualified and  
2 trained volunteers and/or interns upon written approval of ADMINISTRATOR. CONTRACTOR shall  
3 provide ongoing supervision to volunteers and/or interns consistent with the prevailing educational and  
4 practice standards or as specified by ADMINISTRATOR.

5 E. CONTRACTOR shall maintain personnel files for each staff member, both administrative and  
6 programmatic, both direct and indirect, which shall include, but not be limited to, an application for  
7 employment, qualifications for the position, documentation of bicultural/bilingual capabilities (if  
8 applicable), pay rate and evaluations justifying pay increases.

9 F. CONTRACTOR shall establish clear P&Ps pertaining to staff's work location options (i.e.  
10 office vs. field/home) and equipment usage (e.g., cell phones, texting devices, and computers). The  
11 P&Ps shall address at the minimum the following:

- 12 1. Eligibility and selection criteria;
- 13 2. Staff's field/home on-duty conduct and responsibilities;
- 14 3. Supervision plan of staff and equipment including emergency procedure; and
- 15 4. Confidentiality and records keeping.

16 G. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of  
17 any staffing vacancies that occur during the term of the Agreement. CONTRACTOR's notification  
18 shall include at a minimum the following information: employee name(s), position title(s), date(s) of  
19 resignation, date(s) of hire, and a description of recruitment activity.

20 H. CONTRACTOR shall notify ADMINISTRATOR, in writing, at least seven (7) days in  
21 advance, of any new staffing changes; including promotions, temporary FTE changes and internal or  
22 external temporary staffing assignment requests that occur during the term of the Agreement.

23 I. CONTRACTOR shall ensure that all staff, albeit paid or unpaid, complete necessary training  
24 prior to discharging duties associated with their titles and any other training necessary to assist the  
25 CONTRACTOR and COUNTY to be in compliance with prevailing standards of practice as well as  
26 State and Federal regulatory requirements.

27 J. CONTRACTOR shall provide ongoing supervision throughout all shifts to all staff, albeit paid  
28 or unpaid, direct line staff or supervisors/directors, to enhance service quality and program  
29 effectiveness. Supervision methods should include debriefings and consultation as needed, individual  
30 supervision or one-on-one support, and team meetings. Supervision should be provided by a supervisor  
31 who has extensive knowledge regarding mental health issues.

32 K. CONTRACTOR shall ensure that all staff are trained and have a clear understanding of  
33 CONTRACTOR's administrative and program P&Ps. CONTRACTOR shall provide signature  
34 confirmation of its P&P training for each staff member and place in their personnel files.

35 L. CONTRACTOR shall not engage in, or permit any of its employees or subcontractors, to  
36 conduct research activity on COUNTY Participants without obtaining prior written authorization from  
37 ADMINISTRATOR.

1 M. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
2 Staffing Paragraph of this Exhibit A to the Agreement.

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1 EXHIBIT B  
2 TO AGREEMENT FOR PROVISION OF  
3 EARLY CHILDHOOD MENTAL HEALTH CONSULTATION SERVICES  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 CHARITABLE VENTURES OF ORANGE COUNTY  
8 MARCH 15, 2020 THROUGH JUNE 30, 2022  
9

10 **I. BUSINESS ASSOCIATE CONTRACT**

11 **A. GENERAL PROVISIONS AND RECITALS**

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

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

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

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

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

34 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in  
35 Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to a  
36 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the  
37 terms of this Business Associate Contract, as it exists now or be hereafter updated with notice to

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

4 B. DEFINITIONS

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

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

11 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

36 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in 45  
37 CFR § 160.103.



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

3 7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in  
4 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance  
5 with 45 CFR § 164.502(g).

6 8. "Physical Safeguards" are physical measures, policies, and procedures to protect  
7 CONTRACTOR's electronic information systems and related buildings and equipment, from natural  
8 and environmental hazards, and unauthorized intrusion.

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

11 10. "Protected Health Information" or "PHI" shall have the meaning given to such term under  
12 the HIPAA regulations in 45 CFR § 160.103.

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

15 12. "Secretary" shall mean the Secretary of the Department of Health and Human Services or  
16 his or her designee.

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

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

24 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in  
25 45 CFR § 160.103.

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

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

32 18. "Use" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §  
33 160.103.

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

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

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

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

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

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

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

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

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

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

34 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to  
35 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,  
36 and to make information related to such Disclosures available as would be required for COUNTY to  
37

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1 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with  
2 45 CFR § 164.528.

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

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

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

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

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

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

37 //

1 applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the  
2 event:

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

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

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

11 D. SECURITY RULE

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

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

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

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

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

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

36 4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or  
37 transmit electronic PHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to

1 the same restrictions and requirements contained in this Paragraph D of this Business Associate  
2 Contract.

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

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

9 E. DATA SECURITY REQUIREMENTS

10 1. Personal Controls

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

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

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

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

36 2. Technical Security Controls

37 //

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

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

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

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

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

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

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

1 Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if  
2 revealed or compromised. Passwords must be composed of characters from at least three of the  
3 following four groups from the standard keyboard:

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

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

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

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

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

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

32 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to  
33 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
34 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is  
35 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files  
36 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as  
37 website access, file transfer, and E-Mail.

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

5 3. Audit Controls

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

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

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

19 4. Business Continuity/Disaster Recovery Control

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

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

32 5. Paper Document Controls

33 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR  
34 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left  
35 unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means  
36 that information is not being observed by an employee authorized to access the information. Such PHI  
37 //



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

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

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

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

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

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

24 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

18 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in  
19 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the  
20 COUNTY.

21 5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation  
22 of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that  
23 CONTRACTOR made all notifications to COUNTY consistent with this Paragraph F and as required by  
24 the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure  
25 of PHI did not constitute a Breach.

26 6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or  
27 its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

28 7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the  
29 Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit  
30 COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as  
31 practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of  
32 the Breach to COUNTY pursuant to Subparagraph F.2 above.

33 8. CONTRACTOR shall continue to provide all additional pertinent information about the  
34 Breach to COUNTY as it may become available, in reporting increments of five (5) business days after  
35 the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable  
36 requests for further information, or follow-up information after report to COUNTY, when such request  
37 is made by COUNTY.

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

5 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

15 1) The Disclosure is required by law; or

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

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

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

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

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

30 H. PROHIBITED USES AND DISCLOSURES

31 1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or  
32 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual to  
33 a health plan for payment or health care operations purposes if the PHI pertains solely to a health care  
34 item or service for which the health care provider involved has been paid out of pocket in full and the  
35 individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR § 164.522(a).

36 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI  
37 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on

1 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by 42 USC §  
2 17935(d)(2).

3 I. OBLIGATIONS OF COUNTY

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

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

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

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

15 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

29 c. In the event that CONTRACTOR determines that returning or destroying the PHI is not  
30 feasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or  
31 destruction infeasible. Upon determination by COUNTY that return or destruction of PHI is infeasible,  
32 CONTRACTOR shall extend the protections of this Business Associate Contract to such PHI and limit  
33 further Uses and Disclosures of such PHI to those purposes that make the return or destruction  
34 infeasible, for as long as CONTRACTOR maintains such PHI.

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

37 //

1 EXHIBIT C  
2 TO AGREEMENT FOR PROVISION OF  
3 EARLY CHILDHOOD MENTAL HEALTH CONSULTATION SERVICES  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 CHARITABLE VENTURES OF ORANGE COUNTY  
8 MARCH 15, 2020 THROUGH JUNE 30, 2022  
9

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

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

13 A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

12 B. TERMS OF AGREEMENT

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

18 2. Responsibilities of CONTRACTOR

19 CONTRACTOR agrees:

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

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

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

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

37 2) Providing a level and scope of security that is at least comparable to the level and

1 scope of security established by the Office of Management and Budget in OMB Circular No. A-130,  
2 Appendix III-Security of Federal Automated Information Systems, which sets forth guidelines for  
3 automated information systems in Federal agencies.

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

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

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

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

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

33 h. Breaches and Security Incidents. During the term of the Agreement, CONTRACTOR  
34 agrees to implement reasonable systems for the discovery of any breach of unsecured DHCS PI and PII  
35 or security incident. CONTRACTOR agrees to give notification of any beach of unsecured DHCS PI  
36 and PII or security incident in accordance with Paragraph F, of the Business Associate Contract,  
37 Exhibit B to the Agreement.

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

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