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**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, 2011 through ~~June 30~~ December 31, 2012

Period One means the period from July 1, 2011 through June 30, 2012

Period Two means the period from July 1, 2012 through December 31, 2012

**Maximum Obligation:**        ~~\$175,000~~

Period One Maximum Obligation:	\$227,627
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Period Two Maximum Obligation:	87,500
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<b>TOTAL CONTRACT MAXIMUM OBLIGATION:</b>	<b>\$315,127</b>
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**Basis for Reimbursement:** Actual Cost

**Payment Method:** Actual Cost

**Notices to COUNTY and CONTRACTOR:**

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

CONTRACTOR: AIDS Services Foundation Orange County  
Attention: Executive Director  
17982 Sky Park Circle, Suite J  
Irvine, California 92614

**CONTRACTOR's Insurance Coverages:**

<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
Employer's Liability Insurance	\$1,000,000 per occurrence
Professional Liability Insurance	\$1,000,000 per claims made or per occurrence
Sexual Misconduct	\$1,000,000 per occurrence

**I. ALTERATION OF TERMS**

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

**II. ASSIGNMENT OF DEBTS**

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

**III. COMPLIANCE**

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

1. ADMINISTRATOR shall ensure that CONTRACTOR is made aware of the relevant policies and procedures relating to ADMINISTRATOR's Compliance Program.

2. CONTRACTOR shall ensure that its employees, subcontractors, interns, volunteers, and members of Board of Directors or duly authorized agents, if appropriate, ("Covered Individuals") relative to this Agreement are made aware of ADMINISTRATOR's Compliance Program and related policies and procedures.

3. CONTRACTOR has the option to adhere to ADMINISTRATOR's Compliance Program or establish its own, provided CONTRACTOR's Compliance Program has been approved by ADMINISTRATOR's Compliance Officer as described in subparagraphs A.4., A.5., A.6., and A.7. below.

4. If CONTRACTOR elects to have its own Compliance Program then it shall submit a copy of its Compliance Program and relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement.

5. ADMINISTRATOR's Compliance Officer shall determine if CONTRACTOR's Compliance Program is accepted. CONTRACTOR shall take necessary action to meet said standards or shall be asked to acknowledge and agree to the ADMINISTRATOR's Compliance Program.

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1           6. Upon approval of CONTRACTOR's Compliance Program by ADMINISTRATOR's  
2 Compliance Officer, CONTRACTOR shall ensure that its employees, subcontractors, interns,  
3 volunteers, and members of Board of Directors or duly authorized agents, if appropriate, ("Covered  
4 Individuals") relative to this Agreement are made aware of CONTRACTOR's Compliance Program and  
5 related policies and procedures.

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

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

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

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

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

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

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

30           4. Covered Individuals shall be required to disclose to CONTRACTOR immediately any  
31 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.  
32 CONTRACTOR shall notify ADMINISTRATOR immediately upon such disclosure.

33           5. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal  
34 and state funded health care services by contract with COUNTY in the event that they are currently  
35 sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If  
36 CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,  
37 //

1 CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY  
2 business operations related to this Agreement.

3 6. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or  
4 entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened.  
5 Such individual or entity shall be immediately removed from participating in any activity associated  
6 with this AGREEMENT. ADMINISTRATOR will determine if any repayment is necessary from  
7 CONTRACTOR for services provided by ineligible person or individual.

8 7. CONTRACTOR shall promptly return any overpayments within in forty-five (45) days after  
9 the overpayment is verified by the ADMINISTRATOR.

10 C. COMPLIANCE TRAINING - ADMINISTRATOR shall make General Compliance Training  
11 and Provider Compliance Training, where appropriate, available to Covered Individuals.

12 1. CONTRACTOR shall use its best efforts to encourage completion by Covered Individuals;  
13 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated  
14 representative to complete all Compliance Trainings when offered.

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

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

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

21 D. CODE OF CONDUCT - ADMINISTRATOR has developed a Code of Conduct for adherence  
22 by ADMINISTRATOR's employees and contract providers.

23 1. ADMINISTRATOR shall ensure that CONTRACTOR is made aware of  
24 ADMINISTRATOR's Code of Conduct.

25 2. CONTRACTOR shall ensure that its employees, subcontractors, interns, volunteers, and  
26 members of Board of Directors or duly authorized agents, if appropriate, ("Covered Individuals")  
27 relative to this Agreement are made aware of ADMINISTRATOR's Code of Conduct.

28 3. CONTRACTOR has the option to adhere to ADMINISTRATOR's Code of Conduct or  
29 establish its own provided CONTRACTOR's Code of Conduct has been approved by  
30 ADMINISTRATOR's Compliance Officer as described in subparagraphs D.4., D.5., D.6., D.7., and D.8.  
31 below.

32 4. If CONTRACTOR elects to have its own Code of Conduct, then it shall submit a copy of its  
33 Code of Conduct to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement.

34 5. ADMINISTRATOR's Compliance Officer shall determine if CONTRACTOR's Code of  
35 Conduct is accepted. CONTRACTOR shall take necessary action to meet said standards or shall be  
36 asked to acknowledge and agree to the ADMINISTRATOR's Code of Conduct.

37 //

6. Upon approval of CONTRACTOR's Code of Conduct by ADMINISTRATOR, CONTRACTOR shall ensure that its employees, subcontractors, interns, volunteers, and members of Board of Directors or duly authorized agents, if appropriate, ("Covered Individuals") relative to this Agreement are made aware of CONTRACTOR's Code of Conduct.

7. If CONTRACTOR elects to adhere to ADMINISTRATOR's Code of Conduct then CONTRACTOR shall submit to ADMINISTRATOR a signed acknowledgement and agreement that CONTRACTOR shall comply with ADMINISTRATOR's Code of Conduct.

8. Failure of CONTRACTOR to timely submit the acknowledgement of ADMINISTRATOR's Code of Conduct shall constitute a material breach of this Agreement, and failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.

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

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

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

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

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

**IV. CONFIDENTIALITY**

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

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

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

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

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

## 11 **V. COST REPORT**

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

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

25 a. CONTRACTOR may be assessed a late penalty of ~~one~~ five hundred dollars (~~\$100~~ 500)  
26 for each business day after the above specified due date that the accurate and complete Cost Report is  
27 not submitted. Imposition of the late penalty shall be at the sole discretion of ~~the~~ ADMINISTRATOR.  
28 The late penalty shall be assessed separately on each outstanding Cost Report due COUNTY by  
29 CONTRACTOR.

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

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

36 3. In the event that CONTRACTOR does not submit an accurate and complete Cost Report  
37 within one hundred and eighty (180) calendar days following the termination of this Agreement, and

1 CONTRACTOR has not entered into a subsequent or new agreement for any other services with  
2 COUNTY, then all amounts paid to CONTRACTOR by COUNTY during the term of the Agreement  
3 shall be immediately reimbursed to COUNTY.

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

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

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

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

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

1 F. ~~The All~~ Cost ~~Report~~ Reports for each period shall contain the following attestation, which may  
2 be typed directly on or attached to the Cost Report:

3  
4 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and  
5 supporting documentation prepared by \_\_\_\_\_ for the cost report period  
6 beginning \_\_\_\_\_ and ending \_\_\_\_\_ and that, to the best of my  
7 knowledge and belief, costs reimbursed through this Agreement are reasonable and  
8 allowable and directly or indirectly related to the services provided and that this Cost  
9 Report is a true, correct, and complete statement from the books and records of  
10 (provider name) in accordance with applicable instructions, except as noted. I also  
11 hereby certify that I have the authority to execute the accompanying Cost Report.

12  
13 Signed \_\_\_\_\_  
14 Name \_\_\_\_\_  
15 Title \_\_\_\_\_  
16 Date \_\_\_\_\_"

17  
18 **VI. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

19 A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without  
20 prior written consent of COUNTY; provided, however, obligations undertaken by CONTRACTOR  
21 pursuant to this Agreement may be carried out by means of subcontracts, provided such subcontracts are  
22 approved in advance, in writing by ADMINISTRATOR, meet the requirements of this Agreement as  
23 they relate to the service or activity under subcontract, and include any provisions that  
24 ADMINISTRATOR may require. No subcontract shall terminate or alter the responsibilities of  
25 CONTRACTOR to COUNTY pursuant to this Agreement. CONTRACTOR may not assign the rights  
26 hereunder, either in whole or in part, without the prior written consent of COUNTY.  
27 ADMINISTRATOR may disallow, from payments otherwise due CONTRACTOR, amounts claimed for  
28 subcontracts not approved in accordance with this paragraph.

29 B. For CONTRACTORS which are nonprofit corporations, any change from a nonprofit  
30 corporation to any other corporate structure of CONTRACTOR, including a change in more than fifty  
31 percent (50%) of the composition of the Board of Directors within a two (2) month period of time, shall  
32 be deemed an assignment for purposes of this paragraph. Any attempted assignment or delegation in  
33 derogation of this paragraph shall be void.

34 C. For CONTRACTORS which are for-profit organizations, any change in the business structure,  
35 including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of  
36 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a  
37 change in fifty percent (50%) or more of CONTRACTOR's directors at one time shall be deemed an

1 assignment pursuant to this paragraph. Any attempted assignment or delegation in derogation of this  
2 paragraph shall be void.

### 4 **VII. EMPLOYEE ELIGIBILITY VERIFICATION**

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

### 15 **VIII. EQUIPMENT**

16 A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as  
17 moveable property of a relatively permanent nature with significant value. Equipment which costs  
18 \$5,000 or over, including sales taxes, freight charges and other taxes are considered Fixed Assets.  
19 Equipment which cost less than \$5,000, including sales taxes, freight charges and other taxes are  
20 considered Minor Equipment or Controlled Assets. The cost of Equipment purchased, in whole or in  
21 part, with funds paid pursuant to this Agreement shall be depreciated according to generally accepted  
22 accounting principles.

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

29 C. Upon ADMINISTRATOR's prior written approval, CONTRACTOR may expense to COUNTY  
30 the cost of specified items of Equipment purchased by CONTRACTOR. To "expense," in relation to  
31 Equipment, means to charge the full cost of Equipment in the fiscal year in which it is purchased. Title  
32 of expensed Equipment shall be vested with COUNTY and the Equipment shall be deemed to be  
33 "Loaned Equipment" while in the possession of CONTRACTOR.

34 D. CONTRACTOR shall maintain an inventory of all Equipment purchased in whole or in part  
35 with funds paid through this Agreement, including date of purchase, purchase price, serial number,  
36 model and type of Equipment. Such inventory shall be available for review by ADMINISTRATOR, and  
37 //

1 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 Loaned Equipment. Equipment shall be tagged with a COUNTY issued tag. Upon  
5 demand by ADMINISTRATOR, CONTRACTOR shall return any or all Loaned Equipment to  
6 COUNTY.

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

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

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

#### 18 **IX. FACILITIES, PAYMENTS AND SERVICES**

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

#### 25 **X. INDEMNIFICATION AND INSURANCE**

26 A. CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY,  
27 and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special  
28 districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board  
29 ("COUNTY INDEMNITEES") harmless from any claims, demands or liability of any kind or nature,  
30 including but not limited to personal injury or property damage, arising from or related to the services,  
31 products or other performance provided by CONTRACTOR pursuant to this Agreement. If judgment is  
32 entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the  
33 concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and  
34 COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request  
35 a jury apportionment.  
36

37 //

1 B. Without limiting CONTRACTOR’s indemnification, it is agreed that CONTRACTOR shall  
2 maintain in force at all times during the term of this Agreement a policy, or policies, of insurance  
3 covering its operations as specified in the Referenced Contract Provisions of this Agreement

4 C. All insurance policies except Workers' Compensation and Employer's Liability, and  
5 Professional Liability shall contain the following clauses:

6 1. "The County of Orange is included as an additional insured with respect to the operations of  
7 the named insured performed under contract with the County of Orange."

8 2. "It is agreed that any insurance maintained by the County of Orange shall apply in excess of,  
9 and not contribute with, insurance provided by this policy."

10 3. "This insurance shall not be canceled, limited or non-renewed until after thirty (30)  
11 calendar days written notice has been given to Orange County HCA/Contract Development and  
12 Management, 405 West 5th Street, Suite 600, Santa Ana, CA 92701-4637."

13 D. Certificates of insurance and endorsements evidencing the above coverages and clauses shall be  
14 mailed to COUNTY as referenced in the Referenced Contract Provisions of this Agreement.

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

18  
19 **XI. INSPECTIONS AND AUDITS**

20 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative  
21 of the State of California, the Secretary of the United States Department of Health and Human Services,  
22 the Comptroller General of the United States, or any other of their authorized representatives, shall to  
23 the extent permissible under applicable law have access to any books, documents, and records, including  
24 but not limited to, medical and client records, of CONTRACTOR that are directly pertinent to this  
25 Agreement, for the purpose of responding to a beneficiary complaint or conducting an audit, review,  
26 evaluation, or examination, or making transcripts during the periods of retention set forth in the Records  
27 Management and Maintenance paragraph of this Agreement. Such persons may at all reasonable times  
28 inspect or otherwise evaluate the services provided pursuant to this Agreement, and the premises in  
29 which they are provided.

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

34 **C. AUDIT RESPONSE**

35 1. Following an audit report, in the event of non-compliance with applicable laws and  
36 regulations governing funds provided through this Agreement, COUNTY may terminate this Agreement  
37 as provided for in the Termination paragraph or direct CONTRACTOR to immediately implement

1 appropriate corrective action. A plan of corrective action shall be submitted to ADMINISTRATOR in  
2 writing within thirty (30) calendar days after receiving notice from ADMINISTRATOR.

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

10 D. CONTRACTOR shall employ a licensed certified public accountant, who will prepare and file  
11 with ADMINISTRATOR, an annual, independent, organization-wide audit of related expenditures  
12 during the term of this Agreement.

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

## 17 **XII. LICENSES AND LAWS**

18 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term  
19 of this Agreement, maintain all necessary licenses, permits, approvals, certificates, waivers, and  
20 exemptions necessary for the provision of services hereunder and required by the laws and regulations of  
21 the United States, the State of California, COUNTY, and any other applicable governmental agencies.  
22 CONTRACTOR shall notify ADMINISTRATOR immediately and in writing of its inability to obtain or  
23 maintain, irrespective of the pendency of an appeal, such permits, licenses, approvals, certificates,  
24 waivers and exemptions. Said inability shall be cause for termination of this Agreement.

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

- 28 1. Title XXVI of the Public Health Services Act, as amended by the Ryan White HIV/AIDS  
29 Treatment Modernization Act of 2009.
- 30 2. Federal Single Audit Act of 1984 (31 U.S.C.A. 7501.70).
- 31 3. Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, as it may exist  
32 now, or be hereafter amended, and if applicable.
- 33 4. The American Recovery & Reinvestment Act (ARRA) of 2009.
- 34 5. The Americans with Disabilities Act of 1990 (42 U.S.C.A. 12101 et seq.).
- 35 6. 42 CFR, Public Health.
- 36 7. Public Law 103-227, Pro-Children Act of 1994.
- 37

- 8. State of California Penal Code Section 11164, et seq., Child Abuse and Neglect Reporting.
- 9. State of California Welfare and Institutions Code Section 15600, et seq., Abuse of the Elderly and Dependent Adults.
- 10. 45 CFR Part 76, Drug Free Work Place.
- 11. California Code of Regulations, Title 22.
- 12. U.S. Department of Health and Human Services, Public Health Services, PHS Grant Policy Statement.
- 13. Office of Management and Budget (OMB) Circulars A-87, A-89, A-110, A-122 and A-133.

C. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

- a. In the case of an individual contractor, his/her name, date of birth, social security number, and residence address;
- b. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, social security number, and residence address of each individual who owns an interest of ten percent (10%) or more in the contracting entity;
- c. A certification that CONTRACTOR has fully complied with all applicable federal and state reporting requirements regarding its employees;
- d. A certification that CONTRACTOR has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply;

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

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

**XIII. MAXIMUM OBLIGATION**

A. The Maximum Obligation of COUNTY for services provided in accordance with this Agreement is as specified in the Referenced Contract Provisions of this Agreement.

B. ADMINISTRATOR may increase the Maximum Obligation by an amount not to exceed ten percent (10%), or decrease the Maximum Obligation in accordance with the Budget paragraph of Exhibit A to this Agreement.

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#### **XIV. NONDISCRIMINATION**

##### **A. EMPLOYMENT**

1. During the performance of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of his/her ethnic group identification, race, religion, ancestry, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition, or physical or mental disability. CONTRACTOR shall warrant that the evaluation and treatment of employees and applicants for employment are free from discrimination in the areas of employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices from ADMINISTRATOR and/or the United States Equal Employment Opportunity Commission setting forth the provisions of the Equal Opportunity clause.

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

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

**B. SERVICES, BENEFITS, AND FACILITIES** - CONTRACTOR shall not discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of ethnic group identification, race, religion, ancestry, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition, or physical or mental disability in accordance with Title IX of the Education Amendments of 1972; Title VI of the Civil Rights Act of 1964 (42 U.S.C.A. §2000d); the Age Discrimination Act of 1975 (42 U.S.C.A. §6101); and Title 9, Division 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations, and all other pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all may now exist or be hereafter amended or changed.

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

- a. Denying a client or potential client any service, benefit, or accommodation.
- b. Providing any service or benefit to a client which is different or is provided in a different manner or at a different time from that provided to other clients.
- c. Restricting a client in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit.

1 d. Treating a client differently from others in satisfying any admission requirement or  
 2 condition, or eligibility requirement or condition, which individuals must meet in order to be provided  
 3 any service or benefit.

4 e. Assignment of times or places for the provision of services.

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

10 a. In those cases where the client's complaint is filed initially with the Office for Civil  
 11 Rights (Office), the Office may proceed to investigate the client's complaint, or the Office may request  
 12 COUNTY to conduct the investigation.

13 b. Within the time limits procedurally imposed, the complainant shall be notified in  
 14 writing as to the findings regarding the alleged complaint and, if not satisfied with the decision, may file  
 15 an appeal with the Office for Civil Rights.

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

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

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

## 30 **XV. NOTICES**

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

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

36 2. When faxed, transmission confirmed;

37 3. When sent by Email; or

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

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

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

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

#### 13 **XVI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

17 B. CONTRACTOR shall notify ADMINISTRATOR at least ten (10) business days in advance of  
18 any applicable public event or meeting. The notification must include the date, time, duration, location  
19 and purpose of public event or meeting. Any promotional materials or event related flyers must be  
20 approved by ADMINISTRATOR prior to distribution.  
21

#### 22 **XVII. RECORDS MANAGEMENT AND MAINTENANCE**

23 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term  
24 of this Agreement, prepare, maintain and manage records appropriate to the services provided and in  
25 accordance with this Agreement and all applicable requirements, which include but are not limited to:  
26 Title 45 Code of Federal Regulations (CFR), §164.501; §164.524; §164.526; §164.530(c) and (j).  
27

28 B. CONTRACTOR shall implement and maintain administrative, technical and physical  
29 safeguards to ensure the privacy of protected health information (PHI) and prevent the intentional or  
30 unintentional use or disclosure of PHI in violation of the Health Insurance Portability and Accountability  
31 Act of 1996 (HIPAA), federal and state regulations and/or COUNTY HIPAA Policies and Procedures  
32 (P&P) (COUNTY HIPAA P&P 1-2). CONTRACTOR shall mitigate to the extent practicable, the  
33 known harmful effect of any use or disclosure of protected health information made in violation of  
34 federal or state regulations and/or COUNTY policies.

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

1 D. CONTRACTOR shall ensure appropriate financial records related to cost reporting,  
2 expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately.

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

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

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

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

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

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

18 1. Have documents readily available within twenty-four (24) hour notice of a scheduled audit  
19 or site visit.

20 2. Provide auditor or other authorized individuals access to documents via a computer  
21 terminal.

22 3. Provide auditor or other authorized individuals a hardcopy printout of documents, if  
23 requested.

24 H. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and  
25 security of Personally Identifiable Information (PII) and/or Protected Health Information (PHI).  
26 CONTRACTOR shall, immediately upon discovery of a breach of privacy and/or security of PII and/or  
27 PHI by CONTRACTOR, notify ADMINISTRATOR of such breach by telephone and email or  
28 facsimile.

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

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

36 //

37 //

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

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

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

9 N. CONTRACTOR may be required to retain all records involving litigation proceedings and  
10 settlement of claims for a longer term which will be directed by the ADMINISTRATOR.

11 O. CONTRACTOR shall notify ADMINISTRATOR of any Public Record Act (PRA) request  
12 within twenty-four (24) hours. CONTRACTOR shall provide ADMINISTRATOR all information that  
13 is requested by the PRA request.

#### 14 **XVIII. SEVERABILITY**

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

#### 21 **XIX. SPECIAL PROVISIONS**

22  
23 A. CONTRACTOR shall not use the funds provided by means of this Agreement for the following  
24 purposes:

25 1. Purchasing or improving land, including constructing or permanently improving any  
26 building or facility, except for tenant improvements.

27 2. Providing inpatient hospital services or purchasing major medical equipment.

28 3. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal  
29 funds (matching).

30 4. Making cash payments to intended recipients of services through this Agreement.

31 5. Contracting or subcontracting with any entity other than an individual or nonprofit entity,  
32 unless no non-profit is able and willing to provide such services.

33 6. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications  
34 and reports in compliance with this requirement pursuant to Title 31, U.S.C.A, Section 1352  
35 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial  
36 transactions).

37 7. Supplanting current funding for existing services.

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

7 10. To meet professional licensure or program licensure requirements.

8 11. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
 9 CONTRACTOR's staff, volunteers, or members of the Board of Directors.

10 12. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants,  
 11 subcontractors, or members of the Board of Directors or its designee or authorized agent, or making  
 12 salary advances or giving bonuses to CONTRACTOR's staff.

13 13. Reimbursement of CONTRACTOR's members of the Board of Directors for expenses or  
 14 services.

15 14. Paying an individual salary or compensation for services at a rate in excess of the current  
 16 Level I of the Executive Salary Schedule as published by the Federal Office of Personnel Management  
 17 (OPM). The OPM Executive Salary Schedule may be found at [www.opm.gov](http://www.opm.gov).

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

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

22 2. Funding travel or training (excluding mileage or parking) not approved by  
 23 ADMINISTRATOR.

24 3. Making phone calls outside of the local area unless documented to be directly for the  
 25 purpose of client care.

26 4. Payment for grant writing, consultants, certified public accounting, or legal services not  
 27 approved in advance by ADMINISTRATOR.

28 5. Purchase of artwork or other items that are for decorative purposes and do not directly  
 29 contribute to the quality of services to be provided pursuant to this Agreement.

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

32  
 33 **XX. STATUS OF CONTRACTOR**

34 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be  
 35 wholly responsible for the manner in which it performs the services required of it by the terms of this  
 36 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and  
 37 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the

1 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR  
 2 or any of CONTRACTOR's employees, agents, consultants, or subcontractors. CONTRACTOR  
 3 assumes exclusively the responsibility for the acts of its employees, agents, consultants, or  
 4 subcontractors as they relate to the services to be provided during the course and scope of their  
 5 employment. CONTRACTOR, its agents, employees, consultants, or subcontractors, shall not be  
 6 entitled to any rights or privileges of COUNTY employees and shall not be considered in any manner to  
 7 be COUNTY employees.

## 8 9 **XXI. TERM**

10 The term of this Agreement shall commence and terminate as specified in the Referenced Contract  
 11 Provisions of this Agreement, unless otherwise sooner terminated as provided in this Agreement;  
 12 provided, however, CONTRACTOR shall be obligated to perform such duties as would normally extend  
 13 beyond this term, including but not limited to, obligations with respect to confidentiality,  
 14 indemnification, audits, reporting and accounting.

## 15 16 **XXII. TERMINATION**

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

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

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

- 25 1. The loss by CONTRACTOR of legal capacity.
- 26 2. Cessation of services.
- 27 3. The delegation or assignment of CONTRACTOR's services, operation or administration to  
 28 another entity without the prior written consent of COUNTY.
- 29 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty  
 30 required pursuant to this Agreement.
- 31 5. The loss of accreditation or any license required by the Licenses and Laws paragraph of this  
 32 Agreement.
- 33 6. The continued incapacity of any physician or licensed person to perform duties required  
 34 pursuant to this Agreement.
- 35 7. Unethical conduct or malpractice by any physician or licensed person providing services  
 36 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR

37 ///

1 removes such physician or licensed person from serving persons treated or assisted pursuant to this  
2 Agreement.

3 D. CONTINGENT FUNDING

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

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

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

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

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

15 F. In the event this Agreement is terminated by either party, after receiving a Notice of  
16 Termination CONTRACTOR shall do the following:

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

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

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

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

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

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

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

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

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**XXIII. THIRD PARTY BENEFICIARY**

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

**XXIV. WAIVER OF DEFAULT OR BREACH**

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

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

3  
4 AIDS SERVICES FOUNDATION ORANGE COUNTY

5  
6 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

7  
8 TITLE: \_\_\_\_\_

9  
10  
11 COUNTY OF ORANGE

12  
13  
14 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

15 CHAIR OF THE BOARD OF SUPERVISORS

16  
17 SIGNED AND CERTIFIED THAT A COPY  
18 OF THIS DOCUMENT HAS BEEN DELIVERED  
19 TO THE CHAIR OF THE BOARD PER G.C. SEC. 25103, RESO 79-1535  
20 ATTEST:

21  
22 \_\_\_\_\_ DATED: \_\_\_\_\_

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

26  
27  
28 APPROVED AS TO FORM  
29 OFFICE OF THE COUNTY COUNSEL  
30 ORANGE COUNTY, CALIFORNIA

31  
32 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

33 DEPUTY

34  
35 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or  
36 any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer.  
37 If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution or by-laws whereby the board of directors  
has empowered said authorized individual to act on its behalf by his or her signature alone is required by HCA.

EXHIBIT A  
 TO AGREEMENT WITH  
 AIDS SERVICES FOUNDATION ORANGE COUNTY  
 FOR THE PROVISION OF HIV PREVENTION SERVICES  
 JULY 1, 2011 THROUGH ~~JUNE 30,~~ DECEMBER 31, 2012

**I. ASSURANCES**

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

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

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

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

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

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

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

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

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

3. In the case of individuals with an income greater than one hundred percent (100%) of the official federal poverty level and not exceeding two hundred percent (200%) of such poverty level, CONTRACTOR shall not, for any calendar year, impose charges in an amount exceeding five percent (5%) of the annual gross income of the individual involved.

4. In the case of individuals with an income greater than two hundred percent (200%) of the official federal poverty level and not exceeding three hundred percent (300%) of such poverty line,

1 CONTRACTOR shall not, for any calendar year, impose charges in an amount exceeding seven percent  
2 (7%) of the annual gross income of the individual involved.

3 5. In the case of individuals with an income greater than three hundred percent (300%) of the  
4 official federal poverty level, CONTRACTOR shall not, for any calendar year, impose charges in an  
5 amount exceeding ten percent (10%) of the annual gross income of the individual involved.  
6

## 7 **II. BUDGET**

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

### 10 **HIV-Positive MSM**

#### 11 **ADMINISTRATIVE COSTS**

12	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	
13	\$ 8,873	\$3,411	<del>\$ 6,822</del>
14	2,041	784	<del>1,569</del>
15	1,661	639	<del>1,277</del>
16	<u>\$ 12,575</u>	<u>\$4,834</u>	<del>\$ 9,668</del>

#### 17 **PROGRAM COSTS**

18			
19	\$101,522	\$39,025	<del>\$ 78,050</del>
20	23,351	8,976	<del>17,952</del>
21	25,143	9,665	<del>19,330</del>
22	<u>\$150,016</u>	<u>\$57,666</u>	<del>\$115,332</del>

#### 23 **TOTAL NET COSTS**

24	<u>\$162,591</u>	<u>\$62,500</u>	<del>\$125,000</del>
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<b>High-Risk Latino MSM</b>			
	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	
<b>ADMINISTRATIVE COSTS</b>			
Salaries	\$ 4,218	\$1,622	<del>\$ 3,243</del>
Benefits	970	373	746
Services and Supplies	799	307	<del>614</del>
<b>SUBTOTAL</b>	<u>\$ 5,987</u>	<u>\$2,302</u>	<del>\$ 4,603</del>
<b>PROGRAM COSTS</b>			
Salaries	\$ 36,943	\$14,201	<del>\$ 28,402</del>
Benefits	8,497	3,266	6,532
Services and Supplies	13,609	5,231	<del>10,463</del>
<b>SUBTOTAL</b>	<u>\$ 59,049</u>	<u>\$22,698</u>	<del>\$ 45,397</del>
<b>TOTAL NET COSTS</b>	<u>\$ 65,036</u>	<u>\$25,000</u>	<del>\$ 50,000</del>
<b>TOTAL CONTRACT COSTS</b>	<u>\$227,627</u>	<u>\$87,500</u>	<del>\$175,000</del>

B. CONTRACTOR shall provide a written narrative justifying each budget line item and for any budget revisions thereafter. The narrative budget justification shall include all pertinent information as required by ADMINISTRATOR.

C. CONTRACTOR's cumulative total costs shall be evaluated monthly and compared to the target cumulative total costs. If CONTRACTOR's cumulative total costs deviate ten percent (10%) either above or below the target, ADMINISTRATOR may request a written justification and a corrective action plan or request a budget revision. In the event CONTRACTOR's costs are ten percent (10%) or more below the target and CONTRACTOR's plan is not acceptable to ADMINISTRATOR, or CONTRACTOR fails to submit a plan within the time period specified by ADMINISTRATOR, ADMINISTRATOR may reduce the Maximum Obligation as set forth in the Referenced Contract Provisions of this Agreement. ADMINISTRATOR shall notify CONTRACTOR in writing of said reduction.

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1 D. CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) INFORMATION

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

4  
5 CFDA Year: 2011  
6 CFDA No.: 93.940  
7 Program Title: HIV Prevention Program (indirect)  
8 Federal Agency: Centers for Disease Control and Prevention  
9 Award Name: HIV Prevention Program (indirect)  
10 Amount: \$315,127 ~~\$175,000~~ (estimated)

11  
12 **III. PAYMENTS**

13 A. COUNTY shall pay CONTRACTOR monthly, in arrears, for the actual costs of providing the  
14 services described hereunder, less revenues which are actually received by CONTRACTOR provided,  
15 however, the total of such payments does not exceed COUNTY's Maximum Obligation, as set forth in  
16 the Referenced Contract Provisions of this Agreement or the Maximum Obligation adjusted in  
17 accordance with subparagraph II.C. of this Exhibit A to the Agreement, and provided further,  
18 CONTRACTOR's costs are reimbursable pursuant to county, state and/or federal regulations.  
19 ADMINISTRATOR may, at its discretion, pay supplemental billings for any month for which the  
20 interim payment amount specified above has not been fully paid.

21 1. ADMINISTRATOR shall use the Expenditure and Revenue Report specified in  
22 subparagraph B of the Reports paragraph of this Agreement to determine payment to CONTRACTOR.

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

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

33 B. All payments are interim payments only and are subject to final settlement in accordance with  
34 the Cost Report paragraph of this Agreement.

35 C. CONTRACTOR's billing shall be on a form approved or supplied by COUNTY and provide  
36 such information as is required by ADMINISTRATOR. Billings are due the twentieth (20th) calendar  
37 //

1 day of each month and payments to CONTRACTOR should be released by COUNTY no later than  
2 twenty-one (21) calendar days after receipt of the correctly completed billing form.

3 D. All billings to COUNTY shall be supported, at CONTRACTOR's facility, by source  
4 documentation including, but not limited to, ledgers, journals, time sheets, invoices, bank statements,  
5 canceled checks, receipts, receiving records and records of services provided. ADMINISTRATOR may  
6 require CONTRACTOR to submit documentation in support of the monthly billings.

7 E. At ADMINISTRATOR's sole discretion, ADMINISTRATOR may withhold or delay all or a  
8 part of any payment if CONTRACTOR fails to comply with any provision of the Agreement.

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

#### 12 13 **IV. REPORTS**

14 A. CONTRACTOR shall submit, on forms provided or approved by ADMINISTRATOR, financial  
15 and/or programmatic reports as requested by ADMINISTRATOR concerning CONTRACTOR's  
16 activities as they relate to this Agreement. ADMINISTRATOR will be specific as to the nature of the  
17 information requested and allow thirty (30) calendar days for CONTRACTOR to respond.

##### 18 **B. FISCAL**

19 1. CONTRACTOR shall electronically submit a monthly Expenditure and Revenue Report to  
20 ADMINISTRATOR and designated COUNTY staff, in support of the monthly invoice. These reports  
21 shall be on a form acceptable to, or provided by ADMINISTRATOR, and shall report units of service  
22 provided and actual costs and revenues for each of CONTRACTOR's program(s) or cost center(s)  
23 described in the Service paragraph of this Exhibit A to the Agreement. The report shall be received by  
24 ADMINISTRATOR no later than twenty (20) calendar days following the end of the month being  
25 reported.

26 2. CONTRACTOR shall submit quarterly, year-end projection reports to ADMINISTRATOR.  
27 These reports shall be on a form approved or provided by ADMINISTRATOR and shall include, but not  
28 be limited to, anticipated year-end actual costs and revenue for CONTRACTOR's program(s) or cost  
29 center(s) described in the Services paragraph of this Exhibit A to the Agreement. Said projection reports  
30 shall be submitted by October 20, 2011, January 20, 2012, April 20, 2012, July 20, 2012 and  
31 September 20, 2012 unless otherwise agreed to in writing by ADMINISTRATOR.

##### 32 **C. PROGRAMMATIC**

33 1. CONTRACTOR shall submit, on forms provided or approved by ADMINISTRATOR,  
34 semi-annual narrative reports of services provided. The reports shall be received by the  
35 ADMINISTRATOR on January 20, 2012, July 20, 2012 and January 21, 2013.

36 2. CONTRACTOR shall submit monthly outcome reports to ADMINISTRATOR. These  
37 reports shall be on a form acceptable to, or provided by ADMINISTRATOR, and shall include outcome

1 data specific to each intervention. The report shall be received by ADMINISTRATOR no later than  
2 twenty (20) calendar days following the end of the month being reported.

3 D. STAFFING – CONTRACTOR shall submit monthly staffing reports to ADMINISTRATOR.  
4 These reports shall be on a form acceptable to, or provided by ADMINISTRATOR, and shall include,  
5 but not be limited to, employees’ names, positions, and actual hours worked, and when and which staff  
6 have taken Compliance Training in accordance with the Compliance paragraph of this Agreement. The  
7 report shall be received by ADMINISTRATOR no later than twenty (20) calendar days following the  
8 end of the month being reported.

9 E. DATA REPORTING – CONTRACTOR shall fully comply with ADMINISTRATOR  
10 requirements for data reporting for Prevention funded services. For purposes of this Agreement, data  
11 reporting shall be defined as collecting data on approved forms for all interventions and entering data  
12 into the COUNTY’s designated data system inclusive of Local Evaluation Online (LEO) by the fifteenth  
13 (15th) calendar day of each month, for the prior month.

14 F. QUALITY MANAGEMENT (QM)

15 1. CONTRACTOR shall submit a QM Plan in a form approved or provided by  
16 ADMINISTRATOR by July 20, 2011. Upon written approval of the QM Plan by ADMINISTRATOR,  
17 CONTRACTOR shall implement the QM Plan, which will be monitored on an ongoing basis.

18 2. CONTRACTOR shall submit a QM Report with appropriate signature(s) to  
19 ADMINISTRATOR by July 20, 2012 and January 21, 2013. The QM Report shall be submitted in a  
20 format provided or approved by ADMINISTRATOR. The QM Report shall include but not be limited  
21 to:

- 22 a. Summary of QM activities,
- 23 b. Summary of findings, and
- 24 c. Summary of how findings will be addressed.

25 G. CONTRACTOR shall submit a calendar of events to ADMINISTRATOR by July 30, 2011.

26  
27 **V. SERVICES**

28 A. HIV-POSITIVE MSM - CONTRACTOR shall provide HIV prevention services to eligible  
29 individuals, with emphasis on HIV-positive Men Who Have Sex With Men (MSM) who engage in, or  
30 are likely to engage in, unprotected sex, for the purposes of increasing their understanding and  
31 awareness about HIV transmission and risk reduction. Behavioral risk groups are selected based upon  
32 epidemiological data, and are identified in the 2007-2010 Orange County Comprehensive HIV  
33 Prevention Plan developed by the Orange County HIV Prevention Planning Committee as required and  
34 approved by the State of California, Office of AIDS. CONTRACTOR shall prepare and adhere to a  
35 timeline for key activities for the services specified below.

36 1. Group-Level Interventions - Group-level interventions are designed for individuals to have  
37 sufficient time to learn, discuss and practice risk reduction skills.

1 a. By June 30, 2012, CONTRACTOR shall conduct a minimum of twenty-five (25)  
 2 ~~eighteen (18)~~ core group meetings designed to reduce isolation. The core group meetings shall cover  
 3 issues specific to adopting and reinforcing positive behavior change. Thirteen (13) ~~Nine (9)~~ of the  
 4 meetings will be in English, and twelve (12) ~~nine (9)~~ meetings will be in Spanish. CONTRACTOR  
 5 shall recruit four (4) English-speaking and four (4) Spanish-speaking participants of core group meetings  
 6 to obtain input and direction for program design and implementation of community building events. .  
 7 By December 31, 2012, CONTRACTOR shall conduct a minimum of ten (10) core group meetings  
 8 designed to reduce isolation. The core group meetings shall cover issues specific to adopting and  
 9 reinforcing positive behavior change. Five (5) of the meetings will be in English and five (5) meetings  
 10 will be in Spanish. CONTRACTOR shall recruit four (4) English-speaking and four (4) Spanish-  
 11 speaking participants of core group meetings to obtain input and direction for program design and  
 12 implementation of community building events.

13 b. CONTRACTOR's documentation for core group meetings shall include, but not be  
 14 limited to dated meeting logs, sign-in sheets, and core group meeting agendas.

15 c. CONTRACTOR shall report the following outcomes:

- 16 1) Number and percent of core group members recruited.
- 17 2) Number and percent of individuals who complete a pre and post-test.
- 18 3) Number and percent of core group members with improved post-test scores as  
 19 compared to pre-test.

20 d. CONTRACTOR shall, maintain a clear protocol for obtaining and maintaining  
 21 appropriate documentation of HIV status for clients. While clients may initially self-report HIV status, it  
 22 is CONTRACTOR's responsibility to confirm and document HIV status prior to reporting units of  
 23 service to ADMINISTRATOR, entering information into California Department of Public Health  
 24 (CDPH) database, and for the purposes of site visits and/or audits, have documentation available for  
 25 review. Acceptable forms of documentation are as follows:

- 26 1) Western Blot;
- 27 2) Enzyme-linked immunoassay (ELISA);
- 28 3) Verification of HIV (VOH) form signed by a doctor with at least one of these items  
 29 mentioned: indication that client is being treated for HIV/AIDs or statement of quantitative viral load;
- 30 4) Confirmation from ADMINISTRATOR database system verifying client's status;
- 31 or
- 32 5) Referral from provider that has verified serostatus.

33 2. Health Communication Public Information (HCPI) – Mpowerment Workshops.

34 a. Mpowerment workshops (M-Group workshops) are designed to increase prevention  
 35 behaviors, improve personal attitudes toward HIV and sexually transmitted disease (STD) prevention,  
 36 and increase a sense of personal responsibility for practicing safer sex. CONTRACTOR staff  
 37 facilitating M-Group workshops shall complete Mpowerment training.

1 b. By June 30, 2012, CONTRACTOR shall conduct ~~a minimum of ten (10)~~ M-Group  
 2 workshops for a minimum of three (3) hours in length, consisting of a minimum of ~~ten (10)~~ ~~five (5)~~  
 3 English speaking workshops and a minimum of ~~twelve (12)~~ ~~five (5)~~ Spanish speaking workshops to one  
 4 hundred (100) unduplicated individuals. By December 31, 2012, CONTRACTOR shall conduct M-  
 5 Group workshops for a minimum of three (3) hours in length, consisting of a minimum of six (6)  
 6 English speaking workshops and a minimum of two (2) Spanish speaking workshop to sixty (60)  
 7 unduplicated individuals.

8 c. CONTRACTOR's documentation for M-Group workshops shall include, but not be  
 9 limited to, sign-in sheets, safer sex competency check sheets, and pre- and post-test scores. M-Group  
 10 workshops shall be in the form of small group discussions around prevention and health topics, and shall  
 11 be conducted in a variety of venues including, but not limited to, cafes and conference facilities.

12 d. CONTRACTOR shall report the following outcomes:

- 13 1) Number and percent of individuals who complete a pre and post-test.
- 14 2) Number and percent of individuals with improved post-test scores as compared to  
 15 pre-test.

16 3. Individual-Level Interventions (ILI) - Individual-level interventions include a minimum of  
 17 three (3) risk reduction counseling sessions designed to assist the client in identifying risk behaviors,  
 18 developing a risk reduction plan and implementing risk reduction goals. ILI shall facilitate linkages to  
 19 services in both clinic and community settings (e.g. substance abuse treatment setting) in support of  
 20 behaviors and practices that prevent transmission of HIV.

21 a. June 30, 2012, CONTRACTOR shall conduct a minimum of ~~seventy-five (75)~~  
 22 ~~thirty-two (32)~~ risk reduction counseling sessions to a minimum of ~~twenty-five (25)~~ ~~sixteen (16)~~  
 23 unduplicated English-speaking individuals and a minimum of ~~sixty (60)~~ ~~thirty-two (32)~~ risk reduction  
 24 counseling sessions to a minimum of ~~twenty (20)~~ ~~sixteen (16)~~ unduplicated Spanish-speaking  
 25 individuals, and shall make referrals when appropriate. By December 31, 2012, CONTRACTOR shall  
 26 conduct a minimum of twenty-four (24) risk reduction counseling sessions to a minimum of eight (8)  
 27 unduplicated English-speaking individuals and a minimum of twenty-four (24) risk reduction counseling  
 28 sessions to a minimum of eight (8) unduplicated Spanish-speaking individuals, and shall make referrals  
 29 when appropriate.

30 b. CONTRACTOR shall document risk reduction counseling sessions, and shall address  
 31 progress or barriers to progress. CONTRACTOR's documentation shall include, but not be limited to,  
 32 basic demographics, risky behaviors, competency in utilizing the items in safer sex kits, client's stage of  
 33 behavior change, and referrals offered.

34 c. CONTRACTOR shall report the following outcomes:

- 35 1) Number and percent of individuals who complete a risk reduction plan at the end of  
 36 the first session.

37 //

1                   2) Number and percent of individuals who report maintaining the target behavior  
2 change a month following the last session.

3                   3) Number and percent of individuals who are counseled on Partner Services.

4                   4) Number and percent of individuals who are referred to third party notification  
5 services.

6                   d. CONTRACTOR shall maintain a clear protocol for obtaining and maintaining  
7 appropriate documentation of HIV status for clients. While clients may initially self-report HIV status, it  
8 is CONTRACTOR's responsibility to confirm and document HIV status prior to reporting client to  
9 ADMINISTRATOR, entering information into CDPH database, and for the purposes of site visits and/or  
10 audits, have documentation available for review. Acceptable forms of documentation are as follows:

11                   1) Western Blot;

12                   2) ELISA;

13                   3) Verification of HIV (VOH) form signed by a doctor with at least one of these items  
14 mentioned: indication that client is being treated for HIV/AIDs, or statement of quantitative viral load;

15                   4) Confirmation from ADMINISTRATOR database system verifying client's status;

16 or

17                   5) Referral from provider that has verified serostatus.

18                   B. HIGH-RISK LATINO MSM - CONTRACTOR shall provide HIV prevention services to  
19 eligible individuals, with emphasis on high-risk Latino men who have sex with men, between the ages of  
20 eighteen (18) and twenty-nine (29), who are Spanish-speaking and engage in, or are likely to engage in,  
21 unprotected sex, for the purposes of increasing their understanding and awareness about HIV  
22 transmission and risk reduction. Behavioral risk groups are selected based upon epidemiological data,  
23 and are identified in the 2007-2010 Orange County Comprehensive HIV Prevention Plan developed by  
24 the Orange County HIV Planning Committee as required and approved by the State of California, Office  
25 of AIDS. CONTRACTOR shall prepare and adhere to a timeline for key activities for the services  
26 specified below.

27                   1. Group-Level Interventions - Group-level interventions are designed for individuals to have  
28 sufficient time to learn, discuss and practice risk reduction skills.

29                   a. By June 30, 2012, CONTRACTOR shall conduct a minimum of thirty-eight (38) core  
30 group meetings designed to promote community building among the target population. CONTRACTOR  
31 shall recruit fifteen (15) Spanish-speaking Latino MSM individuals from the core group meetings to  
32 carry out project activities to a minimum of sixty (60) unduplicated individuals. By December 31, 2012,  
33 CONTRACTOR shall conduct a minimum of nineteen (19) core group meetings designed to promote  
34 community building among the target population. CONTRACTOR shall recruit seven (7) Spanish-  
35 speaking Latino MSM individuals from the core group meetings to carry out project activities to a  
36 minimum of thirty (30) unduplicated individuals.

37 //

1 b. CONTRACTOR's documentation for core group meetings shall include, but not be  
2 limited to sign-in sheets and individual surveys which demonstrate the client's intent to adopt or  
3 maintain safer behaviors.

4 c. CONTRACTOR shall report the following outcomes:

5 1) Number and percent of core group members recruited.

6 2) Number and percent of individuals who complete a pre and post-test.

7 3) Number and percent of core group members with improved post-test scores as  
8 compared to pre-test.

9 4) Number and percent of individuals referred to HIV testing.

10 5) Number and percent of individuals who received an HIV test.

11 2. Health Communication Public Information (HCPI) – Mpowerment Workshops

12 a. Mpowerment workshops (M-Group workshops) are designed to increase prevention  
13 behaviors, improve personal attitudes towards HIV and sexually transmitted disease (STD) prevention,  
14 and increase a sense of personal responsibility for practicing safer sex. CONTRACTOR staff  
15 facilitating M-Group workshops shall complete Mpowerment training.

16 b. By June 30, 2012, CONTRACTOR shall conduct a minimum of ~~seventeen (17)~~ ~~ten (10)~~  
17 M-Group workshops, for a minimum of three (3) hours in length to one hundred ~~fifty (150)~~ ~~(100)~~  
18 unduplicated Spanish-speaking individuals. By December 31, 2012, CONTRACTOR shall conduct a  
19 minimum of five (5) M-Group workshops, for a minimum of three (3) hours in length to fifty (50)  
20 unduplicated Spanish-speaking individuals.

21 c. CONTRACTOR's documentation for M-Group workshops shall include, but not be  
22 limited to, sign-in sheets, safer sex competency check sheets, and pre- and post-test scores. M-Group  
23 workshops shall be in the form of small group discussions around prevention and health topics, and shall  
24 be conducted in a variety of venues including, but not limited to, cafes and conference facilities.

25 d. CONTRACTOR shall report the following outcomes:

26 1) Number and percent of individuals who complete a pre and post-test.

27 2) Number and percent of individuals with improved post-test scores as compared to  
28 pre-test.

29 3) Number and percent of individuals referred to HIV testing.

30 4) Number and percent of individuals who received an HIV test.

31 C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to amend units of  
32 service, timelines, and outcome measures contained in subparagraphs V.A. and V.B. above.

33 D. CONTRACTOR shall develop tools to evaluate services and shall evaluate services provided  
34 pursuant to this Agreement. Evaluation tools must be approved by ADMINISTRATOR prior to  
35 implementation. CONTRACTOR shall maintain on-going data collection and analysis of results.

36 E. It is understood by the parties that CONTRACTOR shall enter into cooperative agreements with  
37 other Orange County HIV prevention service providers, and establish partnerships with community

1 programs, including but not limited to drug and alcohol prevention and treatment programs, and mental  
2 health providers, to provide a comprehensive approach to HIV prevention. All cooperative agreements  
3 must be submitted to ADMINISTRATOR for review and approval.

4 F. CONTRACTOR shall provide information on Partner Services (PS), formerly called Partner  
5 Counseling Referral Services; conduct PS counseling; and refer, when appropriate, to  
6 ADMINISTRATOR for third party notification services.

7 G. CONTRACTOR shall complete California Department of Public Health (CDPH) database  
8 set-up and obtain approval by ADMINISTRATOR on or before August 31, 2011.

9 H. Any literature, including educational and promotional materials, developed and distributed by  
10 CONTRACTOR for purposes directly related to this Agreement, shall be approved by  
11 ADMINISTRATOR's Prevention Materials Review Panel (PMRP) and Office of HIV Planning and  
12 Coordination prior to dissemination and shall indicate that CONTRACTOR's services are supported by  
13 federal, state, and county funds, as appropriate.

14 I. CONTRACTOR shall participate on Prevention Materials Review Panel established by  
15 ADMINISTRATOR.

16 J. All Group-Level Interventions (GLI) (i.e., rap group, workshop or volunteer training) shall  
17 include a curriculum or outline of HIV and related topics to be presented, and evaluations. GLI  
18 materials require PMRP approval prior to implementation of the GLI.

19 K. CONTRACTOR shall participate on the Orange County HIV Prevention Planning Committee  
20 established by ADMINISTRATOR and shall adhere to the standards set forth by the HIV Prevention  
21 Planning Committee.

22 L. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,  
23 with respect to any person who has been referred to CONTRACTOR by COUNTY under the terms of  
24 this Agreement. Further, CONTRACTOR agrees that the funds provided hereunder shall not be used to  
25 promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian institution,  
26 or religious belief.

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

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**VI. STAFFING**

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

<u>PERIOD ONE</u>	<u>HIV + MSM</u>	<u>High-Risk Latino MSM</u>	<u>TOTAL</u>
<b><u>ADMINISTRATIVE STAFF</u></b>			
<u>Director of Finance and Operations</u>	<u>0.0250</u>	<u>0.0100</u>	<u>0.0350</u>
<u>Senior Staff Accountant</u>	<u>0.0250</u>	<u>0.0100</u>	<u>0.0350</u>
<u>Data Programmer</u>	<u>0.0250</u>	<u>0.0100</u>	<u>0.0350</u>
<u>Data Manager</u>	<u>0.0250</u>	<u>0.0100</u>	<u>0.0350</u>
<u>Accounting Clerk</u>	<u>0.0250</u>	<u>0.0100</u>	<u>0.0350</u>
<u>Network Administrator</u>	<u>0.0250</u>	<u>0.0100</u>	<u>0.0350</u>
<u>Executive Assistant</u>	<u>0.0220</u>	<u>0.0250</u>	<u>0.0470</u>
<b><u>SUBTOTAL FTEs</u></b>	<b><u>0.1720</u></b>	<b><u>0.0850</u></b>	<b><u>0.2570</u></b>
<b><u>PROGRAM STAFF</u></b>			
<u>Director of Health Education</u>	<u>0.4129</u>	<u>0.3770</u>	<u>0.7899</u>
<u>Prevention Specialist</u>	<u>0.6589</u>	<u>0.2000</u>	<u>0.8589</u>
<u>Prevention Specialist</u>	<u>0.8786</u>	<u>0.0000</u>	<u>0.8786</u>
<b><u>SUBTOTAL FTEs</u></b>	<b><u>1.9504</u></b>	<b><u>0.5770</u></b>	<b><u>2.5274</u></b>
<b><u>TOTAL FTEs</u></b>	<b><u>2.1224</u></b>	<b><u>0.6620</u></b>	<b><u>2.7844</u></b>

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		<u>HIV +</u>	<u>High-Risk</u>	
		<u>MSM</u>	<u>Latino</u>	
	<u>PERIOD TWO</u>	<u>MSM</u>	<u>MSM</u>	<u>TOTAL</u>
4	<u>ADMINISTRATIVE STAFF</u>			
5	<u>Director of Finance and Operations</u>	<u>0.0284</u>	<u>0.0130</u>	<u>0.0414</u>
6	<u>Senior Accountant</u>	<u>0.0284</u>	<u>0.0130</u>	<u>0.0414</u>
7	<u>Data Programmer</u>	<u>0.0284</u>	<u>0.0130</u>	<u>0.0414</u>
8	<u>Staff Accountant</u>	<u>0.0284</u>	<u>0.0130</u>	<u>0.0414</u>
9	<u>Accounting Clerk</u>	<u>0.0284</u>	<u>0.0130</u>	<u>0.0414</u>
10	<u>Network Administrator</u>	<u>0.0284</u>	<u>0.0130</u>	<u>0.0414</u>
11	<u>Executive Assistant</u>	<u>0.0250</u>	<u>0.0250</u>	<u>0.0500</u>
12	<u>SUBTOTAL FTEs</u>	<u>0.1954</u>	<u>0.1030</u>	<u>0.2984</u>
14	<u>PROGRAM STAFF</u>			
15	<u>Director of Health Education</u>	<u>0.4700</u>	<u>0.4700</u>	<u>0.9400</u>
16	<u>Health Educator</u>	<u>0.7500</u>	<u>0.2500</u>	<u>1.0000</u>
17	<u>Health Educator</u>	<u>1.0000</u>	<u>0.0000</u>	<u>1.0000</u>
18	<u>SUBTOTAL FTEs</u>	<u>2.2200</u>	<u>0.7200</u>	<u>2.9400</u>
20	<u>TOTAL FTEs</u>	<u>2.4154</u>	<u>0.8230</u>	<u>3.2384</u> <sup>2</sup>
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	HIV+	High-Risk Latino	
	MSM	MSM	TOTAL
<b>ADMINISTRATIVE STAFF</b>			
— Director of Finance and Operations	0.0284	0.0130	0.0414
— Senior Accountant	0.0284	0.0130	0.0414
— Data Programmer	0.0284	0.0130	0.0414
— Staff Accountant	0.0284	0.0130	0.0414
— Accounting Clerk	0.0284	0.0130	0.0414
— Network Administrator	0.0284	0.0130	0.0414
— Executive Assistant	<u>0.0250</u>	<u>0.0250</u>	<u>0.0500</u>
<b>SUBTOTAL FTEs</b>	<b>0.1954</b>	<b>0.1030</b>	<b>0.2984</b>
<b>PROGRAM STAFF</b>			
— Director of Health Education	0.4700	0.4700	0.9400
— Health Educator	0.7500	0.2500	1.0000
— Health Educator	<u>1.0000</u>	<u>0.0000</u>	<u>1.0000</u>
<b>SUBTOTAL FTEs</b>	<b>2.2200</b>	<b>0.7200</b>	<b>2.9400</b>
<b>TOTAL FTEs</b>	<b>2.4154</b>	<b>0.8230</b>	<b>3.2384</b>

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

C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to amend subparagraph VI. A., above.

D. CONTRACTOR shall maintain a time allocation system that will document the amounts charged to grant-supported projects for personnel services to ensure that staff are providing services under this Agreement based on the FTEs noted above. CONTRACTOR shall submit a monthly time and effort report, in a format approved or provided by ADMINISTRATOR, representing actual work performed by the employee during the covered period.

E. CONTRACTOR may augment the above paid staff with volunteers. CONTRACTOR shall provide supervision to volunteers as specified in the respective job descriptions or work contracts.

F. CONTRACTOR shall ensure that its employees, interns and volunteers facilitating Targeted Prevention Activities, and Partner Services complete the appropriate trainings prior to service delivery. In addition, CONTRACTOR shall ensure that appropriate staff is trained in using Local Evaluation Online (LEO). CONTRACTOR must submit to ADMINISTRATOR documents verifying completion of all required training.

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