

1 AGREEMENT FOR PROVISION OF  
2 CRISIS PREVENTION HOTLINE SERVICES  
3 BETWEEN  
4 COUNTY OF ORANGE  
5 AND  
6 DIDI HIRSCH PSYCHIATRIC SERVICE  
7 DBA DIDI HIRSCH MENTAL HEALTH SERVICES  
8 JULY 1, 2019 THROUGH JUNE 30, 2020  
9

10 THIS AGREEMENT entered into this 1st day of July 2019, is by and between the COUNTY OF  
11 ORANGE, a political subdivision of State of California (COUNTY), and DIDI HIRSCH  
12 PSYCHIATRIC SERVICE DBA DIDI HIRSCH MENTAL HEALTH SERVICES, a California  
13 nonprofit corporation (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred  
14 to herein individually as "Party" or collectively as "Parties." This Agreement shall be administered by  
15 the Director of the COUNTY's Health Care Agency or an authorized designee ("ADMINISTRATOR").  
16

17 **W I T N E S S E T H :**  
18

19 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Crisis Prevention  
20 Hotline Services described herein to the residents of Orange County; and

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

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

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**REFERENCED CONTRACT PROVISIONS**

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**Term:** July 1, 2018 through June 30, 2019

**Maximum Obligation:** \$ 392,533

**Basis for Reimbursement:** Actual Cost

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS Number:** 08-376-9752

**CONTRACTOR TAX ID Number:** 95-1816023

**Notices to COUNTY and CONTRACTOR:**

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

**CONTRACTOR:** Didi Hirsch Psychiatric Service  
4760 S. Sepulveda Blvd.  
Culver City, CA 90230  
David Gaffield, Director of Revenue Management  
dgaffield@didihirsch.org

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## I. ACRONYMS

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

1		
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4	A. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
5	B. AIDS	Acquired Immune Deficiency Syndrome
6	C. ARRA	American Recovery and Reinvestment Act of 2009
7	D. ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
8	E. ASI	Addiction Severity Index
9	F. ASRS	Alcohol and Drug Programs Reporting System
10	G. BHS	Behavioral Health Services
11	H. CalOMS	California Outcomes Measurement System
12	I. CalWORKs	California Work Opportunity and Responsibility for Kids
13	J. CAP	Corrective Action Plan
14	K. CCC	California Civil Code
15	L. CCR	California Code of Regulations
16	M. CESI	Client Evaluation of Self at Intake
17	N. CEST	Client Evaluation of Self and Treatment
18	O. CFDA	Catalog of Federal Domestic Assistance
19	P. CFR	Code of Federal Regulations
20	Q. CHPP	COUNTY HIPAA Policies and Procedures
21	R. CHS	Correctional Health Services
22	S. COI	Certificate of Insurance
23	T. CPA	Certified Public Accountant
24	U. CSW	Clinical Social Worker
25	V. DHCS	California Department of Health Care Services
26	W. D/MC	Drug/Medi-Cal
27	X. DPFS	Drug Program Fiscal Systems
28	Y. DRS	Designated Record Set
29	Z. EEOC	Equal Employment Opportunity Commission
30	AA. EHR	Electronic Health Records
31	AB. EOC	Equal Opportunity Clause
32	AC. ePHI	Electronic Protected Health Information
33	AD. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
34	AF. FFS	Fee For Service
35	AG. FSP	Full Service Partnership
36	AH. FTE	Full Time Equivalent
37	AI. GAAP	Generally Accepted Accounting Principles

1	AJ. HCA	County of Orange Health Care Agency
2	AK. HHS	Federal Health and Human Services Agency
3	AL. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
4		Law 104-191
5	AM. HITECH	Health Information Technology for Economic and Clinical Health
6		Act, Public Law 111-005
7	AN. HIV	Human Immunodeficiency Virus
8	AO. HSC	California Health and Safety Code
9	AP. IRIS	Integrated Records and Information System
10	AQ. ITC	Indigent Trauma Care
11	AR. LCSW	Licensed Clinical Social Worker
12	AS. MAT	Medication Assisted Treatment
13	AT. MFT	Marriage and Family Therapist
14	AU. MH	Mental Health
15	AV. MHP	Mental Health Plan
16	AW. MHS	Mental Health Specialist
17	AX. MHSA	Mental Health Services Act
18	AZ. MSN	Medical Safety Net
19	BA. NIH	National Institutes of Health
20	BB. NPI	National Provider Identifier
21	BC. NPPES	National Plan and Provider Enumeration System
22	BD. OCR	Federal Office for Civil Rights
23	BE. OIG	Federal Office of Inspector General
24	BF. OMB	Federal Office of Management and Budget
25	BG. OPM	Federal Office of Personnel Management
26	BH. P&P	Policy and Procedure
27	BI. PA DSS	Payment Application Data Security Standard
28	BJ. PATH	Projects for Assistance in Transition from Homelessness
29	BK. PC	California Penal Code
30	BL. PCI DSS	Payment Card Industry Data Security Standards
31	BM. PCS	Post-Release Community Supervision
32	BN. PHI	Protected Health Information
33	BO. PII	Personally Identifiable Information
34	BP. PRA	California Public Records Act
35	BQ. PSC	Professional Services Contract System
36	BR. SAPTBG	Substance Abuse Prevention and Treatment Block Grant
37	BS. SIR	Self-Insured Retention

- 1 BT. SMA Statewide Maximum Allowable (rate)
- 2 BU. SOW Scope of Work
- 3 BV. SUD Substance Use Disorder
- 4 BW. UMDAP Uniform Method of Determining Ability to Pay
- 5 BX. UOS Units of Service
- 6 BY. USC United States Code
- 7 BZ. WIC Women, Infants and Children

8  
9 **II. ALTERATION OF TERMS**

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

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

17  
18 **III. ASSIGNMENT OF DEBTS**

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

26  
27 **IV. COMPLIANCE**

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

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

34 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own  
35 compliance program, code of conduct and any compliance related policies and procedures.  
36 CONTRACTOR's compliance program, code of conduct and any related policies and procedures shall  
37 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required

1 elements by ADMINISTRATOR’s Compliance Officer as described in this Compliance Paragraph to  
2 this Agreement. These elements include:

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

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

17 4. If CONTRACTOR elects to have its own compliance program, code of conduct and any  
18 Compliance related policies and procedures reviewed by ADMINISTRATOR, then CONTRACTOR  
19 shall submit a copy of its compliance program, code of conduct and all relevant policies and procedures  
20 to ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement.  
21 ADMINISTRATOR’s Compliance Officer, or designee, shall review said documents within a  
22 reasonable time, which shall not exceed forty-five (45) calendar days, and determine if contractor’s  
23 proposed compliance program and code of conduct contain all required elements to the  
24 ADMINISTRATOR’s satisfaction as consistent with the HCA’s Compliance Program and Code of  
25 Conduct. ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and  
26 CONTRACTOR shall revise its compliance program and code of conduct to meet  
27 ADMINISTRATOR’s required elements within thirty (30) calendar days after ADMINISTRATOR’s  
28 Compliance Officer’s determination and resubmit the same for review by the ADMINISTRATOR.

29 5. Upon written confirmation from ADMINISTRATOR’s compliance officer that the  
30 CONTRACTOR’s compliance program, code of conduct and any compliance related policies and  
31 procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals  
32 relative to this Agreement are made aware of CONTRACTOR’s compliance program, code of conduct,  
33 related policies and procedures and contact information for the ADMINISTRATOR’s Compliance  
34 Program.

35 B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or  
36 retained to provide services related to this Agreement monthly to ensure that they are not designated as  
37 Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against the General



1 Services Administration's Excluded Parties List System or System for Award Management, the Health  
2 and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the  
3 California Medi-Cal Suspended and Ineligible Provider List, the Social Security Administration's Death  
4 Master File, and/or any other list or system as identified by ADMINISTRATOR.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. CONTRACTOR shall bill only for those eligible services actually rendered which are also fully documented. When such services are coded, CONTRACTOR shall use proper 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.

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

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

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

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

**V. CONFIDENTIALITY**

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

1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this Agreement are Clients of the Orange County Mental Health services system, and therefore it may be

1 necessary for authorized staff of ADMINISTRATOR to audit Client files, or to exchange information  
2 regarding specific Clients with COUNTY or other providers of related services contracting with  
3 COUNTY.

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

8 3. In the event of a collaborative service agreement between Mental Health services providers,  
9 CONTRACTOR acknowledges and agrees that it is responsible for obtaining releases of information,  
10 from the collaborative agency, for Clients receiving services through the collaborative agreement.

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

18  
19 **VI. CONFLICT OF INTEREST**

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

28  
29 **VII. COST REPORT**

30 A. CONTRACTOR shall submit a Cost Report to COUNTY no later than sixty (60) calendar days  
31 following termination of this Agreement. CONTRACTOR shall prepare the Cost Report in accordance  
32 with all applicable federal, state and COUNTY requirements, GAAP and the Special Provisions  
33 Paragraph of this Agreement. CONTRACTOR shall allocate direct and indirect costs to and between  
34 programs, cost centers, services, and funding sources in accordance with such requirements and  
35 consistent with prudent business practice, which costs and allocations shall be supported by source  
36 documentation maintained by CONTRACTOR, and available at any time to ADMINISTRATOR upon  
37 reasonable notice.

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

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

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

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

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

20 B. The Cost Report shall be the final financial and statistical report submitted by CONTRACTOR  
21 to COUNTY, and shall serve as the basis for final settlement to CONTRACTOR. CONTRACTOR  
22 shall document that costs are reasonable and allowable and directly or indirectly related to the services  
23 to be provided hereunder. The Cost Report shall be the final financial record for subsequent audits, if  
24 any.

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

34 D. If the Cost Report indicates the actual and reimbursable costs of services provided pursuant to  
35 this Agreement, less applicable revenues and late penalty, are lower than the aggregate of interim  
36 monthly payments to CONTRACTOR, CONTRACTOR shall remit the difference to COUNTY. Such  
37 reimbursement shall be made, in cash, or other authorized form of payment, with the submission of the

1 Cost Report. If such reimbursement is not made by CONTRACTOR within thirty (30) calendar days  
2 after submission of the Cost Report, COUNTY may, in addition to any other remedies, reduce any  
3 amount owed CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

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

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

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

19  
20 Signed \_\_\_\_\_  
21 Name \_\_\_\_\_  
22 Title \_\_\_\_\_  
23 Date \_\_\_\_\_"

24  
25 **VIII. DEBARMENT AND SUSPENSION CERTIFICATION**

26 A. CONTRACTOR certifies that it and its principals:

27 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or  
28 voluntarily excluded by any federal department or agency.

29 2. Have not within a three-year period preceding this Agreement been convicted of or had a  
30 civil judgment rendered against them for commission of fraud or a criminal offense in connection with  
31 obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract  
32 under a public transaction; violation of federal or state antitrust statutes or commission of  
33 embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or  
34 receiving stolen property.

35 3. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state,  
36 or local governmental entity with commission of any of the offenses enumerated in Subparagraph A.2.  
37 above.

1 4. Have not within a three-year period preceding this Agreement had one or more public  
2 transactions (federal, state, or local) terminated for cause or default.

3 5. Shall not knowingly enter into any lower tier covered transaction with a person who is  
4 proposed for debarment under federal regulations (i.e., 48 CFR Part 9, Subpart 9.4), debarred,  
5 suspended, declared ineligible, or voluntarily excluded from participation in such transaction unless  
6 authorized by the State of California.

7 6. Shall include without modification, the clause titled "Certification Regarding Debarment,  
8 Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transaction," (i.e., transactions  
9 with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in  
10 accordance with 2 CFR Part 376.

11 B. The terms and definitions of this paragraph have the meanings set out in the Definitions and  
12 Coverage sections of the rules implementing 51 F.R. 6370.

13  
14 **IX. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS**

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

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

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

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

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

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

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

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

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

22 1. After approval of the subcontractor, ADMINISTRATOR may revoke the approval of the  
23 subcontractor upon five (5) calendar days’ written notice to CONTRACTOR if the subcontractor  
24 subsequently fails to meet the requirements of this Agreement or any provisions that  
25 ADMINISTRATOR has required. ADMINISTRATOR may disallow subcontractor expenses reported  
26 by CONTRACTOR.

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

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

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

34 D. CONTRACTOR shall notify COUNTY in writing of any change in the CONTRACTOR’s  
35 status with respect to name changes that do not require an assignment of the Agreement.  
36 CONTRACTOR is also obligated to notify COUNTY in writing if the CONTRACTOR becomes a party  
37 to any litigation against COUNTY, or a party to litigation that may reasonably affect the



1 CONTRACTOR's performance under the Contract, as well as any potential conflicts of interest between  
2 CONTRACTOR and County that may arise prior to or during the period of Agreement performance.  
3 While CONTRACTOR will be required to provide this information without prompting from COUNTY  
4 any time there is a change in CONTRACTOR's name, conflict of interest or litigation status,  
5 CONTRACTOR must also provide an update to COUNTY of its status in these areas whenever  
6 requested by COUNTY.

7  
8 **X. DISPUTE RESOLUTIONS**

9 A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the  
10 dispute concerning a question of fact arising under the terms of this Agreement is not disposed of in a  
11 reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be  
12 brought to the attention of the COUNTY Purchasing Agency by way of the following process:

13 1. CONTRACTOR shall submit to the COUNTY Purchasing Agency a written demand for a  
14 final decision regarding the disposition of any dispute between the Parties arising under, related to, or  
15 involving this Agreement, unless COUNTY, on its own initiative, has already rendered such a final  
16 decision.

17 2. CONTRACTOR's written demand shall be fully supported by factual information, and, if  
18 such demand involves a cost adjustment to the Agreement, CONTRACTOR shall include with the  
19 demand a written statement signed by an authorized representative indicating that the demand is made in  
20 good faith, that the supporting data are accurate and complete, and that the amount requested accurately  
21 reflects the Agreement adjustment for which CONTRACTOR believes COUNTY is liable.

22 B. Pending the final resolution of any dispute arising under, related to, or involving this  
23 Agreement, CONTRACTOR agrees to proceed diligently with the performance of services secured via  
24 this Agreement, including the delivery of goods and/or provision of services. CONTRACTOR's failure  
25 to proceed diligently shall be considered a material breach of this Agreement.

26 C. Any final decision of COUNTY shall be expressly identified as such, shall be in writing, and  
27 shall be signed by a COUNTY Deputy Purchasing Agent or designee. If COUNTY fails to render a  
28 decision within ninety (90) calendar days after receipt of CONTRACTOR's demand, it shall be deemed  
29 a final decision adverse to CONTRACTOR's contentions.

30 D. This Agreement has been negotiated and executed in the State of California and shall be  
31 governed by and construed under the laws of the State of California. In the event of any legal action to  
32 enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent  
33 jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit  
34 to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the  
35 Parties specifically agree to waive any and all rights to request that an action be transferred for  
36 adjudication to another county.

37 //

**XI. EMPLOYEE ELIGIBILITY VERIFICATION**

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

**XII. EQUIPMENT**

A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all property of a Relatively Permanent nature with significant value, purchased in whole or in part by ADMINISTRATOR to assist in performing the services described in this Agreement. “Relatively Permanent” is defined as having a useful life of one (1) year or longer. Equipment which costs \$5,000 or over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes and other taxes, and installation costs, or electronic equipment that costs less than \$600 but may contained PHI or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not limited to phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of Equipment purchased, in whole or in part, with funds paid pursuant to this Agreement shall be depreciated according to GAAP.

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

C. Upon ADMINISTRATOR’s prior written approval, CONTRACTOR may expense to COUNTY the cost of the approved Equipment purchased by CONTRACTOR. To “expense,” in relation to Equipment, means to charge the proportionate cost of Equipment in the fiscal year in which it is purchased. Title of expensed Equipment shall be vested with COUNTY.

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

//

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

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

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

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

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

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

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

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

27  
28 **XIV. INDEMNIFICATION AND INSURANCE**

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

37 //

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

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

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

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

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

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

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

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

35 F. QUALIFIED INSURER

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

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

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

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

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles (4 passengers or less)	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made
Professional Liability Insurance	\$1,000,000 per claims made \$1,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence

29 | H. REQUIRED COVERAGE FORMS

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

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

34 | I. REQUIRED ENDORSEMENTS

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

37 | //

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

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

8 2. The Network Security and Privacy Liability policy shall contain the following  
9 endorsements which shall accompany the COI:

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

12 b. A primary and non-contributing endorsement evidencing that the Contractor’s  
13 insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be  
14 excess and non-contributing.

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

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

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

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

30 N. If CONTRACTOR’s Professional Liability, Technology Errors & Omissions and/or Network  
31 Security & Privacy Liability are “Claims -Made” policies, CONTRACTOR shall agree to maintain  
32 coverage for two (2) years following the completion of the Agreement.

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

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

37 //

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

4 R. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease  
5 insurance of any of the above insurance types throughout the term of this Agreement. Any increase or  
6 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to  
7 adequately protect COUNTY.

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

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

16 U. SUBMISSION OF INSURANCE DOCUMENTS

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

- 18 a. Prior to the start date of this Agreement.
- 19 b. No later than the expiration date for each policy.
- 20 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding

21 changes to any of the insurance requirements as set forth in the Coverage Subparagraph above.

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

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

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

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

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

37 //

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

5 **XV. INSPECTIONS AND AUDITS**

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

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

20 C. AUDIT RESPONSE

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

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

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

36 E. CONTRACTOR shall forward to ADMINISTRATOR a copy of any audit report within  
37 fourteen (14) calendar days of receipt. Such audit shall include, but not be limited to, management,



1 financial, programmatic or any other type of audit of CONTRACTOR’s operations, whether or not the  
2 cost of such operation or audit is reimbursed in whole or in part through this Agreement.

3  
4 **XVI. LICENSES AND LAWS**

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

13 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

14 1. CONTRACTOR certifies it is in full compliance with all applicable federal and State  
15 reporting requirements regarding its employees and with all lawfully served Wage and Earnings  
16 Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the  
17 term of the Agreement with the County of Orange. Failure to comply shall constitute a material breach  
18 of the Agreement and failure to cure such breach within sixty (60) calendar days of notice from the  
19 COUNTY shall constitute grounds for termination of the Agreement.

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

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

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

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

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

- 33 1. ARRA of 2009.
- 34 2. Trafficking Victims Protection Act of 2000.
- 35 3. WIC, Division 5, Community Mental Health Services.
- 36 4. WIC, Division 6, Admissions and Judicial Commitments.
- 37 5. WIC, Division 7, Mental Institutions.

- 1 6. HSC, §§1250 et seq., Health Facilities.
- 2 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 3 8. CCR, Title 9, Rehabilitative and Developmental Services.
- 4 9. CCR, Title 17, Public Health.
- 5 10. CCR, Title 22, Social Security.
- 6 11. CFR, Title 42, Public Health.
- 7 12. CFR, Title 45, Public Welfare.
- 8 13. USC Title 42. Public Health and Welfare.
- 9 14. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 10 15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 11 16. 42 USC §1857, et seq., Clean Air Act.
- 12 17. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 13 18. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 14 19. Policies and procedures set forth in Mental Health Services Act.
- 15 20. Policies and procedures set forth in DHCS Letters.
- 16 21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 17 22. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
- 18 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

19  
20 **XVII. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

30 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly  
31 available social media sites) in support of the services described within this Agreement,  
32 CONTRACTOR shall develop social media policies and procedures and have them available to  
33 ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all  
34 forms of social media used to either directly or indirectly support the services described within this  
35 Agreement. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as  
36 they pertain to any social media developed in support of the services described within this Agreement.

37 //

1 CONTRACTOR shall also include any required funding statement information on social media when  
2 required by ADMINISTRATOR.

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

5  
6 **XVIII. MAXIMUM OBLIGATION**

7 A. The Maximum Obligation of COUNTY for services provided in accordance with this  
8 Agreement is as specified in the Referenced Contract Provisions of this Agreement, except as allowed  
9 for in Subparagraph B. below.

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

12  
13 **XIX. MINIMUM WAGE LAWS**

14 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and  
15 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the  
16 federal or California Minimum Wage to all its Covered Individuals (as defined within the “Compliance”  
17 paragraph of this Agreement) that directly or indirectly provide services pursuant to this Agreement, in  
18 any manner whatsoever. CONTRACTOR shall require and verify that all of its Covered Individuals  
19 providing services pursuant to this Agreement be paid no less than the greater of the federal or  
20 California Minimum Wage.

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

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

28  
29 **XX. NONDISCRIMINATION**

30 **A. EMPLOYMENT**

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

1 applicant for employment because of his/her race, religious creed, color, national origin, ancestry,  
2 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,  
3 gender identity, gender expression, age, sexual orientation, or military and veteran status.

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

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

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

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

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

25 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not  
26 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities  
27 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental  
28 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender  
29 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the  
30 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights  
31 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division  
32 4, Chapter 6, Article 1 (§10800, et seq.) of the CCR; and Title II of the Genetic Information  
33 Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and  
34 regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all  
35 may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination  
36 paragraph, discrimination includes, but is not limited to the following based on one or more of the  
37 factors identified above:

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

10 C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all Clients  
 11 through a written statement that CONTRACTOR’s and/or subcontractor’s Clients may file all  
 12 complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and  
 13 ADMINISTRATOR.

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

18 a. COUNTY shall establish a formal resolution and grievance process in the event  
 19 informal processes do not yield a resolution.

20 b. Throughout the problem resolution and grievance process, Client rights shall be  
 21 maintained, including access to the COUNTY’s Patients’ Rights Office at any point in the process.  
 22 Clients shall be informed of their right to access the COUNTY’s Patients’ Rights Office at any time.

23 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as  
 24 to the findings regarding the alleged complaint and, if not satisfied with the decision, has the right to  
 25 request a State Fair Hearing.

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

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

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

5  
6 **XXI. NOTICES**

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

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

12 2. When faxed, transmission confirmed;

13 3. When sent by Email; or

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

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

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

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

26  
27 **XXII. NOTIFICATION OF DEATH**

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

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

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

36 2. WRITTEN NOTIFICATION

37 //

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

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

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

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

13  
14 **XXIII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

22  
23 **XXIV. RECORDS MANAGEMENT AND MAINTENANCE**

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

27 1. CONTRACTOR shall maintain records that are adequate to substantiate the services for  
28 which claims are submitted for reimbursement under this Agreement and the charges thereto. Such  
29 records shall include, but not be limited to, individual patient charts and utilization review records.

30 2. CONTRACTOR shall keep and maintain records of each service rendered to each MSN  
31 Patient, the identity of the MSN Patient to whom the service was rendered, the date the service was  
32 rendered, and such additional information as ADMINISTRATOR or DHCS may require.

33 3. CONTRACTOR shall maintain books, records, documents, accounting procedures and  
34 practices, and other evidence sufficient to reflect properly all direct and indirect cost of whatever nature  
35 claimed to have been incurred in the performance of this Agreement and in accordance with Medicare  
36 principles of reimbursement and GAAP.

37 //

1 4. CONTRACTOR shall ensure the maintenance of medical records required by §70747  
2 through and including §70751 of the CCR, as they exist now or may hereafter be amended, the medical  
3 necessity of the service, and the quality of care provided. Records shall be maintained in accordance  
4 with §51476 of Title 22 of the CCR, as it exists now or may hereafter be amended.

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

10 C. CONTRACTOR’s participant, client, and/or patient records shall be maintained in a secure  
11 manner. CONTRACTOR shall maintain participant, client, and/or patient records and must establish  
12 and implement written record management procedures.

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

16 E. CONTRACTOR shall retain all client and/or patient medical records for seven (7) years  
17 following discharge of the participant, client and/or patient.

18 F. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges,  
19 billings, and revenues available at one (1) location within the limits of the County of Orange. If  
20 CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may provide  
21 written approval to CONTRACTOR to maintain records in a single location, identified by  
22 CONTRACTOR.

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

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

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

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

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

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



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

3 2. Provide auditor or other authorized individuals access to documents via a computer  
4 terminal.

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

7 J. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and  
8 security of PII and/or PHI. CONTRACTOR shall, upon discovery of a Breach of privacy and/or  
9 security of PII and/or PHI by CONTRACTOR, notify federal and/or state authorities as required by law  
10 or regulation, and copy ADMINISTRATOR on such notifications.

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

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

16  
17 **XXV. RESEARCH AND PUBLICATION**

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

21  
22 **XXVI. SEVERABILITY**

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

28  
29 **XXVII. SPECIAL PROVISIONS**

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

32 1. Making cash payments to intended recipients of services through this Agreement.

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

36 3. Fundraising.

37 //

1 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
2 CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of  
3 Directors or governing body.

4 5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing  
5 body for expenses or services.

6 6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants,  
7 subcontractors, and members of the Board of Directors or governing body, or its designee or authorized  
8 agent, or making salary advances or giving bonuses to CONTRACTOR's staff.

9 7. Paying an individual salary or compensation for services at a rate in excess of the current  
10 Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary  
11 Schedule may be found at [www.opm.gov](http://www.opm.gov).

12 8. Severance pay for separating employees.

13 9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building  
14 codes and obtaining all necessary building permits for any associated construction.

15 10. Supplanting current funding for existing services.

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

18 1. Funding travel or training (excluding mileage or parking).

19 2. Making phone calls outside of the local area unless documented to be directly for the  
20 purpose of Client care.

21 3. Payment for grant writing, consultants, certified public accounting, or legal services.

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

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

26 6. Providing inpatient hospital services or purchasing major medical equipment.

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

29 8. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
30 CONTRACTOR's Clients.

31  
32 **XXVIII. STATUS OF CONTRACTOR**

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

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

7  
8 **XXIX. TERM**

9 A. The term of this Agreement shall commence as specified in the Referenced Contract Provisions  
10 of this Agreement or the execution date, whichever is later. This Agreement shall terminate as specified  
11 in the Referenced Contract Provisions of this Agreement unless otherwise sooner terminated as provided  
12 in this Agreement. 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 B. Any administrative duty or obligation to be performed pursuant to this Agreement on a  
16 weekend or holiday may be performed on the next regular business day.

17  
18 **XXX. TERMINATION**

19 A. Either Party may terminate this Agreement, without cause, upon ninety (90) calendar days’  
20 written notice given the other Party.

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

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

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

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

37 //

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

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

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

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

11 E. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17  
18 **XXXI. THIRD PARTY BENEFICIARY**

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

22  
23 **XXXII. WAIVER OF DEFAULT OR BREACH**

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

29 //  
30 //  
31 //  
32 //  
33 //  
34 //  
35 //  
36 //  
37 //

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

3  
4 DIDI HIRSCH PSYCHIATRIC SERVICE, DBA  
5 DIDI HIRSCH MENTAL HEALTH SERVICES  
6

7 DocuSigned by:  
8 BY: David Gaffield \_\_\_\_\_ DATED: 3/15/2019  
9 4D4040EE18DD499...

10  
11 TITLE: Director Revenue Management  
12

13  
14  
15  
16 COUNTY OF ORANGE  
17

18  
19 BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
20 HEALTH CARE AGENCY  
21

22  
23  
24 APPROVED AS TO FORM  
25 OFFICE OF THE COUNTY COUNSEL  
26 ORANGE COUNTY, CALIFORNIA  
27

28 DocuSigned by:  
29 BY: Eric Divine \_\_\_\_\_ DATED: 3/18/2019  
30 C4E3888C1E6D4FD...

31  
32  
33  
34 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the  
35 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer  
36 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution  
37 or by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her  
signature alone is required by ADMINISTRATOR.

EXHIBIT A  
TO AGREEMENT FOR PROVISION OF  
CRISIS PREVENTION HOTLINE SERVICES  
WITH  
DIDI HIRSCH PSYCHIATRIC SERVICE  
DBA DIDI HIRSCH MENTAL HEALTH SERVICES  
JULY 1, 2019 THROUGH JUNE 30, 2020

**I. COMMON TERMS AND DEFINITIONS**

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

1. ASIST means a two-day intensive, interactive and practice-dominated course designed to help first responders and caregivers (e.g. professionals, paraprofessionals and lay people) recognize risk and learn how to intervene to prevent the immediate risk of suicide

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

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

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

5. CAT means a program within the Behavioral Health Services branch of the Orange County Health Care Agency comprised of licensed clinical social workers, marriage and family therapists, and behavioral health specialists, whose functions include

- a. Crisis intervention for hospital diversions;
- b. Evaluation for involuntary hospitalization (5150 WIC); assistance to police, fire, and social service agencies in response to psychiatric emergencies;

6. Early Intervention means the act of intervening, interfering or interceding at the manifestation of a Behavioral Health Condition, with the intent of measurably improving the condition or to prevent a Behavioral Health Condition from getting worse.

7. Engagement means the process by which a trusting relationship between a worker and Participant is established with the goal to link the Participant to appropriate services.

8. Enrollment means the data entry of a Participant’s program information into program’s Prevention and Intervention database for purposes of recording and tracking a Participant’s involvement in the program.

9. Evaluation means the systematic investigation of the value and impact of an intervention or program.

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

5 11. Family Member means any traditional and/or non-traditional support system, significant  
6 other, or natural support designated by the Participant.

7 12. Follow-up means ensuring that the Participant has linked to the referred service and/or  
8 successfully transitioned from one service to another.

9 13. Involuntary Rescues means interventions crisis counselors use to assist a suicidal caller in  
10 getting to a hospital or any other emergency medical or psychiatric service against his/her wishes when  
11 every reasonable attempt to de-escalate the situation has failed and the caller could not be persuaded to  
12 obtain help voluntarily. Involuntary rescues are initiated after a complete lethality assessment has been  
13 completed and :

14 a. The caller is currently attempting suicide; OR

15 b. An attempt is judged to be imminent. Involuntary rescue involves tracing the call and  
16 contacting the appropriate law enforcement agency for assistance.

17 14. Lethality Assessment Scale/Suicide Risk Assessment Scale means an instrument or tool  
18 developed based on Suicide Risk Assessment standards typically used by crisis counselors to determine  
19 the level of risk a caller poses and to then render appropriate care accordingly. The scale has a rating  
20 from zero (0) to five (5). The higher the score, the higher the level of risk.

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

23 16. Lifeline is the National Suicide Prevention Lifeline which is a twenty-four (24)-hour,  
24 national, toll-free, confidential suicide prevention hotline available to anyone in suicidal crisis or  
25 emotional distress. By dialing 1-800-273-TALK, the call is routed to the nearest crisis center in the  
26 national network of more than one hundred forty (140) crisis centers. Membership with Lifeline  
27 provides call back-up support along with sharing of most advanced research and practice information.

28 17. Linkage means when an individual is connected to programs or services through warm  
29 hand-off or follow-up to ensure the connection is made.

30 18. LiveChat means a web service that allows consumers of mental health services and their  
31 families to communicate with mentors in real time, via a provider's website, to receive support, share  
32 concerns, and connect to resources available in the community.

33 19. Media Events means culturally relevant activities conducted by CONTRACTOR which are  
34 coordinated with and publicized by the media, including radio and TV appearances.

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

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1 21. MHSA means the law that provides funding for expanded community mental health  
2 services, also known as Proposition 63.

3 22. Outreach means contact with potential Participants to link them to appropriate mental  
4 health and supportive services; which may include activities that educate the community about services  
5 offered and requirements for participation in the program.

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

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

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

17 26. PEI means the most recent County of Orange MHSA Prevention and Early Intervention  
18 Plan approved by the Orange County MHSA Steering Committee and Board of Supervisors.

19 27. PHI means individually identifiable health information usually transmitted by electronic  
20 media maintained in any medium as defined in the regulations or for an entity, such as a health plan,  
21 transmitted or maintained in any other medium. It is created or received by a covered entity and relates  
22 to the past, present, or future physical or Behavioral Health Condition of an individual, provision of  
23 health care to an individual, or the past, present, or future payment for health care provided to an  
24 individual.

25 28. Referral means an individual receives information or contacts for services or programs, or  
26 an unsuccessful Linkage attempt.

27 29. SafeTalk means an approximately three (3)-hour long training designed for everyone in the  
28 community and is designed to ensure that persons with thoughts of suicide are connected to helpers who  
29 are prepared to provide first aid interventions. SafeTalk is designed to be used in organizations and  
30 communities where there are already ASIST-trained caregivers.

31 30. Self-Rated Intent means a risk score used by a caller to connote his or her intention to harm  
32 himself or herself when asked by a crisis counselor using a scale of one to five (1 to 5) where one (1)  
33 means "suicide is just a thought" and five (5) means "when we get off the phone I am going to try to kill  
34 myself."

35 31. Suicide Risk Assessment Standards (SRAS) means nationally-recognized practice  
36 guidelines, which contain incorporation of the four (4) core principles--Suicidal Desire, Suicidal  
37 //

1 Capability, Suicidal Intent and Buffers along with the subcomponents in the development of a suicide  
2 risk assessment instrument.

3 32. Training means the action or method used to transfer skills and/or knowledge to a target  
4 audience.

5 33. Trauma-Exposed Individuals means those who are exposed to traumatic events or  
6 prolonged traumatic conditions, including grief, loss and isolation, including those who are unlikely to  
7 seek help from any traditional mental health service.

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

11 35. Units of Service means the number and/or type of activities the CONTRACTOR will fulfill  
12 during a contractual agreement period.

13 36. WarmLine means a phone support line, through which consumers of mental health services  
14 and their families receive support, share concerns and get connected to resources available in the  
15 community. The WarmLine is a diversion from ‘hotlines’ or crisis line/emergency services. Callers  
16 speak with trained consumers and/or family members who provide empathetic listening and  
17 conversation via the telephone and LiveChat.

18 B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
19 Common Terms and Definitions Paragraph of this Exhibit A to the Agreement.

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**II. BUDGET**

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

	<u>TOTAL</u>
ADMINISTRATIVE COST	
Indirect Costs	\$ <u>35,685</u>
SUBTOTAL	\$ 35,685
ADMINISTRATIVE COST	
PROGRAM COST	
Salaries	\$262,378
Benefits	57,723
Services and Supplies	<u>36,748</u>
SUBTOTAL PROGRAM COST	\$356,849
TOTAL GROSS COST	\$392,533
REVENUE	
MHSA	<u>\$392,533</u>
TOTAL REVENUE	\$392,533
TOTAL	\$392,533
MAXIMUM OBLIGATION	

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

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1 written approval from ADMINISTRATOR for any proposed Budget/Staffing Modification Request(s)  
2 may result in disallowance of those costs.

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

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

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11 **III. PAYMENTS**

12 A. COUNTY shall pay CONTRACTOR monthly, in arrears, the provisional amount of  
13 \$32,711 per month. All payments are interim payments only, and subject to Final Settlement in  
14 accordance with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be  
15 reimbursed for the actual cost of providing the services hereunder; provided, however, the total of such  
16 payments does not exceed COUNTY’s Maximum Obligation as specified in the Referenced Contract  
17 Provisions of the Agreement and, provided further, CONTRACTOR’s costs are reimbursable pursuant  
18 to COUNTY, state, and federal regulations. ADMINISTRATOR may, at its discretion, pay  
19 supplemental invoices for any month for which the provisional amount specified above has not been  
20 fully paid.

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

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

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

35 B. CONTRACTOR’s invoices shall be on a form approved or supplied by ADMINISTRATOR  
36 and provide such information as is required by ADMINISTRATOR. Invoices are due the tenth (10th)  
37 day of each month. Invoices received after the due date may not be paid within the same month.

1 | Payments to CONTRACTOR should be released by COUNTY no later than thirty (30) calendar days  
2 | after receipt of the correctly completed invoice.

3 | C. All invoices 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.

6 | D. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply  
7 | with any provision of the Agreement.

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

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

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14 | **IV. REPORTS**

15 | A. FISCAL

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

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

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

35 | C. PROGRAMMATIC – CONTRACTOR shall submit monthly Programmatic reports to  
36 | ADMINISTRATOR. These reports shall be in a format approved by ADMINISTRATOR and shall  
37 | include but not limited to, descriptions of any performance objectives, outcomes, and or interim findings

1 as directed by ADMINISTRATOR. CONTRACTOR shall be prepared to present and discuss the  
2 programmatic reports at the monthly meetings with ADMINISTRATOR, to include whether or not  
3 CONTRACTOR is progressing satisfactorily and if not, specify what steps are being taken to achieve  
4 satisfactory progress. Such reports shall be received by ADMINISTRATOR no later than twentieth  
5 (20th) calendar day following the end of the month being reported.

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

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

12  
13 **V. SERVICES**

14 A. FACILITY - CONTRACTOR shall maintain facility for the provision of services described  
15 herein at the following location(s), or any other location approved, in advance, in writing, by  
16 ADMINISTRATOR. The facility shall include space to support the services identified within the  
17 Agreement.

18  
19 10277 West Olympic Blvd  
20 Los Angeles, CA 90067  
21

22 B. CONTRACTOR shall provide culturally and linguistically appropriate Crisis Prevention  
23 Hotline Services to Orange County residents that are consistent with the COUNTY PEI Plan.  
24 CONTRACTOR shall provide accredited twenty-four (24) hour, toll-free suicide prevention services to  
25 anyone in crisis or experiencing suicidal thoughts. CONTRACTOR shall provide immediate,  
26 confidential, over-the-phone assistance to anyone seeking crisis and/or suicide prevention services for  
27 themselves or someone they know. CONTRACTOR shall triage and offer access to other appropriate  
28 resources to callers, who are not experiencing a crisis

29 C. CONTRACTOR shall include, but not be limited to, the following services:

30 1. CONTRACTOR shall provide toll-free suicide crisis hotline services to COUNTY residents  
31 twenty-four (24) hours a day, three hundred sixty-five (365) days a year through either the local number  
32 at 1-877-7CRISIS number or the national Lifeline number at 1-800-273-TALK (8255).

33 2. CONTRACTOR shall have at least sixteen (16) phones set up to take calls simultaneously  
34 with the capacity to add more if needed.

35 3. CONTRACTOR shall provide services integral to a hotline’s operation and success, which  
36 include: face-to-face educational training and outreach, crisis assessment and counseling, emergency  
37 interventions, Referrals and follow-up.

1 4. CONTRACTOR shall provide face-to-face educational training and outreach, using a  
2 variety of methods and customized training materials, to service providers (e.g., medical personnel, law  
3 enforcement) and the community at large with special attention to culturally or linguistically isolated or  
4 underserved populations, including but not limited to, monolingual non-English speakers (e.g., speakers  
5 of Spanish, Vietnamese, Korean, and Farsi languages), new immigrants, deaf and hard-of-hearing  
6 individuals, lesbian, gay, bisexual and transgender individuals, veterans and older adults.

7 5. CONTRACTOR shall ensure that all Participants in support activities are directed to an  
8 appropriate level of intervention by using an approved SRAS (Suicide Rating Assessment Scale).

9 6. CONTRACTOR shall use a suicide call model including the Lethality Risk Assessment  
10 Scale in assessing and counseling callers.

11 7. CONTRACTOR shall strive to meet the following goals for their program:

12 a. Increase awareness of suicide risk and promote help-seeking behavior by providing  
13 crisis counseling both to individuals in despair and to those who are concerned about them using  
14 Lethality Assessment Scale, which incorporates SRAS four core principles: Suicidal Desire, Suicidal  
15 Capability, Suicidal Intent, and Buffers/Connectedness;

16 b. Connect callers with appropriate and meaningful resources that can reduce or  
17 ameliorate the stressors (e.g. domestic abuse, divorce, finances) and ongoing conditions (e.g. behavioral  
18 health and substance abuse disorders) contributing to one’s distress by regularly updating and expanding  
19 existing Orange County specific resources for the database;

20 c. Reduce the stigma associated with behavioral health condition, substance abuse and  
21 suicide that causes individuals to avoid seeking help and hide their suicidal feelings by educating the  
22 community about the connection between behavioral health conditions and suicide; warning signs of  
23 suicide; and how-to-help; and

24 d. Collaborate effectively with existing and developing community programs and  
25 organizations to facilitate a seamless suicide prevention network and health care delivery system.

26 8. In low or medium risk cases, CONTRACTOR shall use genuine listening and counseling  
27 skills to help callers draw upon their own strengths and resources to resolve the immediate crisis. In  
28 high risk and emergency cases, CONTRACTOR shall attempt to avoid the trauma of an outside  
29 intervention by assisting callers by identifying actions that they can take to ensure their safety, such as  
30 putting a roommate on the phone or voluntarily calling the paramedics. If the caller is in imminent  
31 danger, however, CONTRACTOR shall initiate a rescue by contacting COUNTY’s CAT, the police, or  
32 paramedics if necessary. CONTRACTOR shall maintain collaborative relationships with all Police  
33 Departments in COUNTY and CAT.

34 9. CONTRACTOR shall use a state-of-the-art technology platform for receiving and  
35 managing crisis line calls and tracking all aspects of the call for the purpose of immediate assessment  
36 and triage to determine the safety, appropriateness and initial risk level.

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1 10. CONTRACTOR shall link non-English speaking callers with counselors, who speak their  
2 languages. If no such counselors are available, CONTRACTOR shall offer callers translation services  
3 through CONTRACTOR’s or Lifeline’s Language Line services, which also includes operator assisted  
4 TTY. If the callers decline translation services, CONTRACTOR shall refer them to local service  
5 providers who can provide immediate assistance.

6 11. CONTRACTOR shall perform an immediate risk assessment on frequent users of the  
7 hotline (established callers). CONTRACTOR shall set guidelines to help the callers honor appropriate  
8 boundaries and lessen the burden to the crisis line staff; remind the callers of the limits on call  
9 frequency; and offer to link them with more appropriate resources such as Warmline Services and  
10 community support groups.

11 12. CONTRACTOR shall offer short term follow-up calls on high risk callers to check on their  
12 safety; reassess; and to connect them to resources.

13 13. CONTRACTOR shall seek the help of third parties, including emergency psychiatric  
14 evaluation or law enforcement when a caller’s crisis mode remains high throughout the call and if the  
15 counselor and/or the caller assesses the caller’s life to be in immediate danger.

16 14. CONTRACTOR shall train staff to encourage high risk callers to assist in their own rescue  
17 and will only resort to “Involuntary Rescues” when all other options are exhausted. CONTRACTOR  
18 shall make every reasonable attempt to de-escalate the situation before considering an involuntary  
19 rescue. Involuntary rescues are only done after a complete lethality assessment and in two  
20 circumstances:

- 21 a. The caller is currently attempting suicide; or
- 22 b. An attempt is judged to be imminent.

23 15. After the decision is made to initiate an involuntary rescue, CONTRACTOR shall call 911,  
24 First Responders, Law Enforcement, and/or other agency deemed appropriate to the situation. The  
25 decision to initiate an involuntary rescue needs to be approved by the shift supervisor in consensus with  
26 the crisis line counselor and the on-call supervisor.

27 16. CONTRACTOR shall provide relevant information learned from the phone call and why  
28 CONTRACTOR evaluated the level of risk as CONTRACTOR did to emergency personnel.  
29 CONTRACTOR shall always ask the 911 dispatcher to have the responding emergency personnel  
30 contact CONTRACTOR while at the scene of all rescues, especially those involving imminent risk.

31 17. CONTRACTOR shall conduct a debriefing session upon completion of the rescue process.

32 18. CONTRACTOR shall connect callers with ongoing community support. CONTRACTOR  
33 shall regularly and consistently research and update the state-of-the art resource database and make them  
34 available to phone counselors at all times. Referrals should reflect up to date and current services for  
35 the Orange County area to ensure that referrals provided are appropriate and relevant for participants.

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

UNITS OF SERVICES	ANNUAL CONTRACTED UNITS
Total Calls	8,000
Unduplicated Callers	6,500
Percentage of follow up attempted	100%
Average length of time per call	25 minutes
Types of calls by percentage	
1. Information/referral only calls	25%
2. Suicide/Crisis calls	75%
Outreach activities	
1. Number of Face-to-Face Presentations, Trainings, and/or Health Fairs	275
2. Total Number of people served in outreach activities	15,000

E. CONTRACTOR shall track and implement the following OUTCOME MEASURES.

1. CONTRACTOR shall measure the impact the crisis interventions have on callers by measuring:

a. Callers' self-rated intent at the start and end of the calls.

1)The goal is sixty percent (60%) of callers rating themselves at high or imminent risk will show a decrease in their self-rated intent by the end of the call.

2)The goal is sixty-five percent (65%) of callers rating themselves at medium risk will show a decrease in their self-rated intent by the end of the call.

b. The percentage of follow-up callers successfully contacted.

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

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

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

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

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

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

11 H. CONTRACTOR and ADMINISTRATOR may mutually agree, in advance and in writing, to  
 12 modify the Services Paragraph of this Exhibit A to the Agreement.

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 14 **VI. STAFFING**

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

PROGRAM	<u>FTE</u>
Division Director	0.03
Program Director	0.05
Assistant Program Director (Crisis)	0.05
Research Analyst	0.05
Administrative Assistant I-CP	0.05
Crisis Counselor Bilingual	0.45
Shift Supervisors	0.60
Program Coordinator I Bilingual	0.05
Therapist II Bilingual	0.11
Therapist I	0.15
Training Coordinator	0.05
Outreach a& Training Coordinator Bilingual	2.00
Assistant Program Director (Survivor Support)	0.33
Lead Clinical Supervisor	0.50
Administrative Assistant I-SA	<u>0.15</u>
<b>TOTAL FTE</b>	<b>4.62</b>

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

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

15 D. CONTRACTOR shall actively recruit and maintain a large pool of qualified volunteers,  
16 especially those who speak other languages and those whose lives were impacted by Behavioral Health  
17 Conditions, substance abuse, and suicide and train them to be crisis counselors. Further,  
18 CONTRACTOR shall encourage volunteers/interns who have demonstrated exceptional skills on the  
19 Crisis Hotline to apply for available paid positions with CONTRACTOR upon written approval of  
20 ADMINISTRATOR.

21 E. CONTRACTOR is highly encouraged to augment the above paid staff with qualified and  
22 trained volunteers and/or interns upon written approval of ADMINISTRATOR.

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

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

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

34 H. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of  
35 any staffing vacancies that occur during the term of the Agreement.

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

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

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

13 L. CONTRACTOR shall ensure its accreditation and crisis call center network membership status  
14 is current and in good standing at all times as governed by pertinent protocols and best practice  
15 standards.

16 M. ADMINISTRATOR shall provide, or cause to be provided, training and ongoing consultation to  
17 CONTRACTOR's staff to assist CONTRACTOR in ensuring compliance with ADMINISTRATOR  
18 Standards of Care practices, P&Ps, documentation standards and any State regulatory requirements.

19 N. CONTRACTOR and ADMINISTRATOR may mutually agree, in advance and in writing, to  
20 modify the Staffing Paragraph of this Exhibit A to the Agreement.

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1 EXHIBIT B  
2 TO AGREEMENT FOR PROVISION OF  
3 CRISIS PREVENTION HOTLINE SERVICES  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 DIDI HIRSCH PSYCHIATRIC SERVICE  
8 DBA DIDI HIRSCH MENTAL HEALTH SERVICES  
9 JULY 1, 2019 THROUGH JUNE 30, 2020

10  
11 **I. BUSINESS ASSOCIATE CONTRACT**

12 A. GENERAL PROVISIONS AND RECITALS

13 1. The parties agree that the terms used, but not otherwise defined in the Common Terms and  
14 Definitions Paragraph of Exhibit A, B, and C to the Agreement or in subparagraph B below, shall have  
15 the same meaning given to such terms under HIPAA, the HITECH Act, and their implementing  
16 regulations at 45 CFR Parts 160 and 164 HIPAA regulations as they may exist now or be hereafter  
17 amended.

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

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

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

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

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

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

4 B. DEFINITIONS

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

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

11 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //



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

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

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

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

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

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

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

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

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

9 D. SECURITY RULE

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

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

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

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

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

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

34 4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or  
35 transmit ePHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same  
36 restrictions and requirements contained in this subparagraph D of this Business Associate Contract.

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

17 b. Employee Discipline. Appropriate sanctions must be applied against workforce  
18 members who fail to comply with any provisions of CONTRACTOR's privacy P&Ps, including  
19 termination of employment where appropriate.

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

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

34 2. Technical Security Controls

35 a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY  
36 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
37 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which

1 is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the  
2 COUNTY.

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

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

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

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

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

29 g. User IDs and Password Controls. All users must be issued a unique user name for  
30 accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,  
31 or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password  
32 changed upon the transfer or termination of an employee with knowledge of the password, at maximum  
33 within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight  
34 characters and must be a non-dictionary word. Passwords must not be stored in readable format on the  
35 computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days.  
36 Passwords must be changed if revealed or compromised. Passwords must be composed of characters  
37 from at least three (3) of the following four (4) groups from the standard keyboard:

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

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

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

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

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

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

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

n. Intrusion Detection. All systems involved in accessing, holding, transporting, and protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,

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1 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a  
2 comprehensive intrusion detection and prevention solution.

3 3. Audit Controls

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

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

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

17 4. Business Continuity/Disaster Recovery Control

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

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

30 5. Paper Document Controls

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

37 //

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

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

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

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

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

22 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

16 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in  
17 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the  
18 COUNTY.

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

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

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

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

36 9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or  
37 other costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs



1 in addressing the Breach and consequences thereof, including costs of investigation, notification,  
2 remediation, documentation or other costs associated with addressing the Breach.

3 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

13 1) The Disclosure is required by law; or

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

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

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

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

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

28 H. PROHIBITED USES AND DISCLOSURES

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

34 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI  
35 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on  
36 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by 42 USC §  
37 17935(d)(2).

1 I. OBLIGATIONS OF COUNTY

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

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

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

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

13 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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EXHIBIT C  
TO AGREEMENT FOR PROVISION OF  
CRISIS PREVENTION HOTLINE SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
DIDI HIRSCH PSYCHIATRIC SERVICE  
DBA DIDI HIRSCH MENTAL HEALTH SERVICES  
JULY 1, 2019 THROUGH JUNE 30, 2020

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

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

A. DEFINITIONS

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

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

3. "CMPPA Agreement" means the CMPPA Agreement between the SSA and CHHS.

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

5. "IEA" shall mean the Information Exchange Agreement currently in effect between the SSA and DHCS.

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

7. "PII" shall have the meaning given to such term in the IEA and CMPPA.

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

9. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental

1 or tribal inspector general, or an administrative body authorized to require the production of  
2 information, and a civil or an authorized investigative demand. It also includes Medicare conditions of  
3 participation with respect to health care providers participating in the program, and statutes or  
4 regulations that require the production of information, including statutes or regulations that require such  
5 information if payment is sought under a government program providing public benefits.

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

9 B. TERMS OF AGREEMENT

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

14 2. Responsibilities of CONTRACTOR

15 CONTRACTOR agrees:

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

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

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

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

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

37 //

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

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

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

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

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

29 h. Breaches and Security Incidents. During the term of the Agreement, CONTRACTOR  
30 agrees to implement reasonable systems for the discovery of any Breach of unsecured DHCS PI and PII  
31 or security incident. CONTRACTOR agrees to give notification of any beach of unsecured DHCS PI  
32 and PII or security incident in accordance with subparagraph F, of the Business Associate Contract,  
33 Exhibit B to the Agreement.

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