



CONTRACT NO. MA-042-16011547

FOR

URINALYSIS LABORATORY TESTING SERVICES

BETWEEN

**THE COUNTY OF ORANGE
HEALTH CARE AGENCY**

AND

**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, AS
DESCRIBED IN ARTICLE IX, SECTION 9 OF THE CALIFORNIA
CONSTITUTION, ON BEHALF OF UC IRVINE HEALTH**

TABLE OF CONTENTS	Page No.
Table of Contents	2
Recitals.....	3
 ARTICLES	
General Terms and Conditions (A – II)	3
Additional Terms and Conditions (1 – 26).....	7
Signature Page	13
 ATTACHMENTS	
Attachment A - Scope of Work.....	14
Attachment B - Compensation and Invoicing.....	16
Attachment C – Panel Composition and Test Fee Schedule.....	18
Attachment D – County Drug Testing Locations.....	21
Attachment E – Business Associate Contract.....	24

**CONTRACT NO. MA-042-16011547
FOR
URINALYSIS LABORATORY TESTING SERVICES**

This Contract number MA-042-16011547 (hereinafter "Contract"), is made and entered into this 1ST day of June, 2016 or upon execution of all necessary signatures between The Regents of the University of California, described in Article IX, Section 9 of the California Constitution, on behalf UC Irvine Health, (hereinafter "Contractor"), with a place of business at 101 The City Drive South, Rt. 38, Orange, CA 92868 and the County of Orange (hereinafter "County"), a political subdivision of the State of California, with a place of business at 200 W. Santa Ana Blvd., Suite #650, Santa Ana, CA 92701-7506, which are sometimes individually referred to as "Party", or collectively referred to as "Parties".

RECITALS

WHEREAS, the County issued a Request for Proposals (RFP) for Urinalysis Laboratory Testing Services; and

WHEREAS, the Contractor responded and represented that its proposed services shall meet or exceed the requirements and specifications of the RFP; and

WHEREAS, the Contractor agrees to render all the necessary skills, knowledge, material and labor to perform the services; and

WHEREAS, the County of Orange Board of Supervisors has authorized the Purchasing Agent or designee to enter into Contract with Contractor for obtaining said services; and

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

GENERAL TERMS AND CONDITIONS

- A. Governing Law and Venue:** This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
- B. Entire Contract:** This Contract, when accepted by the Contractor either in writing or by commencement of performance hereunder, contains the entire Contract between the Parties with respect to the matters herein and there are no restrictions, promises, represents or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or designee, hereinafter "Purchasing Agent".
- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
- E. Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed Scope of Work. Acceptance of any part of the order for goods shall not

bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.

- F. Acceptance/Payment:** Unless otherwise agreed to in writing by the County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. Warranty:** Contractor expressly represents that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Contractor agrees to indemnify, defend with counsel approved in writing by County, which shall not be unnecessarily withheld and hold harmless the County, its elected and appointed officials, officers, employees, and agents from any claims, demands or liability of any kind or nature, including expenses and reasonable attorney fees, against the County that arise from the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor represents that any software as modified through services provided hereunder will not infringe upon or violate any patent, copyright, trademark, trade secret or any other proprietary right (Intellectual Property Right) of any third party. Contractor agrees to indemnify, defend with counsel approved in writing by County, which shall not be unnecessarily withheld and hold harmless the County, its elected and appointed officials, officers, employees, and agents from any claims, demands or liability of any kind or nature, including expenses and reasonable attorney fees, against the County that arise from a third party claim of Intellectual Property Right infringement.
- I. Assignment or Subcontracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or subcontract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.
- K. Termination:** Either Party may terminate this Contract, without cause, upon thirty (30) days written notice given to the other Party. Either Party may terminate this Contract upon ten (10) days written notice if the other Party fails to perform (or breaches) any of the terms of this Contract. The breaching Party may be allowed up to thirty (30) days for corrective action.
- L. Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

- M. Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.
- N. Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees, nor anyone working under Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.
- O. Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefor; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.
- P. Insurance Provisions:** County and Contractor represent that they are self-insured or maintain policies of insurance placed with reputable insurance companies licensed to do business in the State of California which insure the perils of bodily injury, medical, professional liability and property damage.
- Q. Bill and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "HH" below, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
- R. Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
- S. ~~Change of Ownership:~~** ~~Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.~~

Change of Ownership/Name, Litigation Status, Conflicts with County Interests: Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract, and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from

the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

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

- T. Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty six (36) hours of the start of the delay and Contractor avails itself of any available remedies.
- U. Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees. However, County understands and agrees that Contractor is a public institution, subject to provisions of the California Public Records Act. In the event Contractor receives a request to produce this Contract, or identify any terms, condition, or aspect of this Contract, Contractor will contact County to advise of such release of information, in accordance with applicable law and as outlined in paragraph 15 of this Contract.
- V. Compliance with Laws:** Contractor represents that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "HH" below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- W. Freight (F.O.B Destination):** Contractor assumes full responsibility for all transportation scheduling, packaging, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- X. Pricing:** The Contract amount shall include full compensation for providing all services as specified herein or when applicable, in the Scope of Work attached to this Contract, and no additional compensation shall be allowed therefor, unless otherwise provided for in this Contract.
- Y. Left Intentionally Blank.**
- Z. Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
- AA. Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
- BB. Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof

shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

- CC. Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- DD. Attorneys Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney’s fees, costs and expenses.
- EE. Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of its own choosing, or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that it has not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing either or both of them. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the Parties and this Contract.
- FF. Authority:** The Parties to this Contract represent that this Contract has been duly authorized and executed and constitutes the legally binding obligation, enforceable in accordance with its terms.
- GG. Employee Eligibility Verification:** Contractor represents that it fully complies with all federal and state statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in federal statutes and regulations. Contractor shall obtain, from all employees 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 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any federal or state statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- HH. Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

County shall indemnify, defend, and hold Contractor, its officers, employees, agents harmless from and against all liability, loss, expense, or claims for injury damages arising out of the performance of this Contract, but only in proportion to and to the extent such liability, loss, expense, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions including the actual or alleged sexual misconduct of County, its officers, employees or agents.

Neither termination of this Contract nor completion of the acts to be performed under this Contract shall release any Party from its obligation to indemnify as to claims or cause of action asserted.

- II. Audits/Inspections:** Contractor agrees to permit County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. County will provide reasonable notice of such an audit or inspection.

County reserves the right to audit and verify Contractor's Records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records.

Should Contractor cease to exist as a legal entity, Contractor's Records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to County's Project Manager.

ADDITIONAL TERMS AND CONDITIONS

1. **Scope of Contract:** This Contract, together with its Attachments attached hereto and incorporated herein by reference, specifies the contractual terms and conditions by which County will procure and receive services from Contractor. The detailed Scope of Work (SOW) is fully set forth and incorporated herein as Attachment A.
2. **Term of Contract:** This Contract shall be in effect from ~~June 1, 2016~~ June 1, 2019 through ~~May 31, 2017~~ May 31, 2020, renewable for ~~four~~ one (4) (1) additional ~~one-~~ year periods upon agreement of both Parties. The County does not have to give reason if it decides not to renew. Contract shall be in effect for the time periods specified, unless this Contract is earlier terminated by the parties in accordance with Articles 5, 6 and 7.
3. **Precedence:** The Contract documents consist of this Contract, and its Attachments. In the event of a conflict between the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the Attachments.
4. **Pricing Structure:** The Contractor agrees that no price/fee increases shall be passed along to the County during the term of this Contract. Contractor may discount said prices anytime during the term of the Contract.
5. **Fiscal Appropriations – Subject to:** This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not approved, the Contract will be terminated without penalty to the County.
6. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from, and/or appropriation of funds by, the State of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
7. **Termination**
Termination – Orderly: After receipt of a termination notice from the County, the Contractor shall submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) days from the effective date of the termination, unless one or

more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each party will assist the other party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each party.

8. **County Project Manager:** County shall appoint a Project Manager to act as liaison with Contractor during the term of this Contract. County's Project Manager shall coordinate the activities of County staff assigned to work with the Contractor. The County will notify Contractor should the County Project Manager appointment change during the term of this Contract.
9. **Contractor Project Manager:** Contractor shall appoint a Project Manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract and act as liaison with the County during the term of this Contract. The Contractor shall notify the County should the Contractor Project Manager appointment change during the term of this Contract.

The Project Manager shall be subject to approval by County and shall not be changed without the written consent of County's Project Manager.

Contractor's Project Manager shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager or any other Contractor's staff providing services to County under this Contract. County's Project Manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within three (3) business days after written notice by County's Project Manager. County's Project Manager shall review and approve the appointment of the replacement for Contractor's Project Manager. County is not required to provide any additional information, reason or rationale in the event it elects to request the removal of Contractor's Project Manager providing services to County under this Contract.

10. **County of Orange Child Support Enforcement:** In order to comply with the child support enforcement requirements of the County of Orange, within ten (10) days of notification of selection of award of Contract but prior to official award of Contract, the selected Contractor agrees to furnish to the contract administrator, the Purchasing Agent, or the agency/department deputy purchasing agent:
 - a. In the case of an individual contractor, his/her name, date of birth, social security number, and residence address;
 - b. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, social security number, and residence address of each individual who owns an interest of ten (10) percent or more in the contracting entity;
 - c. A certification that the contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
 - d. A certification that the contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

Failure of the Contractor to timely submit the data and/or certifications required may result in the Contract being awarded to another contractor. In the event a Contract has been issued, failure of Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within sixty (60) calendar days of notice from County shall constitute grounds for termination of the Contract.

- 11. EDD Independent Contractor Reporting Requirements:** Effective January 1, 2001, the County of Orange is required to file federal Form 1099-Misc for services received from a “service provider” to whom County pays \$600 or more or with whom County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent contractors. An independent contractor is defined as “an individual who is not an employee of the government entity for California purposes and who receives compensation or executes a contract for services performed for that government entity either in or outside of California.”

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at www.edd.ca.gov/txicr.htm.

- 12. Contractor Bankruptcy/Insolvency:** If Contractor should be adjudged bankrupt or should have a general assignment for the benefit of its creditors or if a receiver should be appointed on account of Contractor’s insolvency, County may terminate this Contract.
- 13. Notices:** Any and all notices, requests, demands, and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the Parties’ routine exchange of information and cooperation during the term of the work and services, and shall be deemed to have been duly given (a) upon actual in-person delivery, if delivery is by direct hand; or (b) upon delivery agreed to as the actual day of receipt or no greater than five (5) calendar days after being mailed (the date of mailing shall count as the first day), whichever occurs first by United States certified or registered mail, return receipt requested, postage prepaid, addressed to the appropriate Party at the following address or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid:

For Contractor:	Name:	Regents of the University of California, as described in Article IX, Section 9 of the California Constitution, on behalf of UC Irvine Health
	Address:	101 The City Dr. South, Rt. 38 Orange, CA 92868
	Attn:	Leslie Pierce
	Phone:	714-456-6718
	Fax:	714-456-7857
	E-mail:	piercell@uci.edu

For County:	Name:	County of Orange Health Care Agency/Purchasing
	Address:	200 W. Santa Ana Blvd., Suite #650 Santa Ana, CA 92701
	Attn:	Ana Figueroa
	Title:	Deputy Purchasing Agent
	Phone:	714-834-2170
	Fax:	714-834-2657
	E-mail:	afigueroa@ochca.com

CC: County of Orange Health Care Agency

Name: County of Orange

Health Care Agency/Adult and Older Adult
Behavioral Health
Address: 405 W. 5th Street, Suite 212
Santa Ana, CA 92701
Attn: Diane Holley
Title: County Project Manager
Phone: 714-834-2860
Fax:
E-mail: dholley@ochca.com

14. **News / Information Release:** Both Parties agree that they will not use the name symbols, trademarks, services mark or logos of the other Party. Both Parties agree not to issue any news releases or information of the other Party in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval from the other Party.
15. **California Public Records Act:** Contractor and County agree and acknowledge that all information and documents related to the award and performance of this Contract are subject to disclosure pursuant to the California Public Records Act, California Government Code Section 6250 *et seq.* However if Public records Act request is made by third party, County will provide Contractor with ten (10) business days' written notice prior to the release of such information or documents. Unless Contractor takes action to legally prevent such disclosure (such as obtaining a court order prohibiting the disclosure (County will be required to release the information and/or documentation as legally required).
16. **Gratuities:** Contractor represents that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Contractor or any agent or representative of Contractor to any officer or employee of County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this representation, County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by County in procuring on the open market any goods or services which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
17. **Debarment:** Contractor shall certify that neither contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any federal department or agency. Where Contractor as the recipient of federal funds, is unable to certify to any of the statements in the certification, Contractor must include an explanation with their bid/proposal. Debarment, pending debarment, declared ineligibility or voluntary exclusion from participation by any federal department or agency may result in the bid/proposal being deemed non-responsible.
18. **Lobbying:** On best information and belief, Contractor certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, Contractor to any person for influencing or attempting to influence an officer or employee of Congress; or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
19. **Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. The Contractor agrees to supply services and/or commodities requested, as needed by the County, at prices listed in the Contract, regardless of quantity requested.
20. **Reports/Meetings:** The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The County's Project Manager and the Contractor's Project Manager will meet on reasonable notice to discuss

the Contractor's performance and progress under this Contract. If requested, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.

- 21. Conflict with Existing Law:** The Contractor and the County agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either Party having knowledge of such term or provisions shall promptly inform the other of the presumed non-applicability of such provision. Should the offending provision go to the heart of the Contract, the Contract shall be terminated in a manner commensurate with interests of both Parties to the maximum extent reasonable.
- 22. Parking:** The County shall not provide free parking.
- 23. Contractor Work Hours and Safety Standards:** The Contractor shall ensure compliance with all safety and hourly requirements for employees in accordance with federal, state and County safety regulations and laws.
- 24. Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
- a. Afford the Contractor written notice of the breach and ten calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - b. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - c. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
- 25. Conflict of Interest- Contractor's Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier contractors; and third parties associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.
- 26. Disputes-Resolution:** In the event of any dispute arising out of or relating to this Contract, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. However, if the dispute cannot be resolved by mutual agreement, nothing herein shall preclude either party's right to pursue remedy or relief by civil litigation pursuant to the laws of the State of California.

(SIGNATURE PAGE FOLLOWS)

CONTRACT SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

Contractor's name: The Regents of the University of California, as described in Article IX, Section 9 of the California Constitution, on behalf of UC Irvine Health

Print Name Title

Signature Date

Print Name Title

Signature Date

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

County of Orange, a political subdivision of the State of California

Christine Bavaro-Sutton Procurement Manager

Print Name Title

Signature Date

APPROVED AS TO FORM
Office of the County Counsel
County of Orange, California

Signature Date

ATTACHMENT A**SCOPE OF WORK****A. INTRODUCTION**

Urinalysis Laboratory Testing Services shall be provided for clients at County operated Adult and Older Adult Services and contracted programs. These services shall be used to monitor clients with substance abuse problems to determine compliance with treatment at residential and outpatient programs as well as those who are involved with the criminal justice system.

II. CONTRACTOR'S RESPONSIBILITIES**1. License and Certification**

Contractor shall, at all times during the term of this Contract, be licensed and certified for urinalysis per statutes contained in the California Health and Safety Code (Div. 5, Part 3, Article 3, Section 11881 and Article 4, Sections 11885 through 11896), and regulations contained in Sections 1160 through 1196 of the California Code of Regulations (Title 17, Group 5.5, Articles 1 through 8), Laboratory Improvement Amendment (CLIA), and College American Pathologist (CAP).

2. Consumables

Contractor shall provide at no additional expense to County all consumables required such as wrapped specimen bottles and caps, urine/specimen containers (standard size, leak proof, free of any contaminant), pre-addressed labels and forms, chain of custody forms, mailer/transportation cartons, etc.

3. Pickup Service

Contractor shall pick up specimens on a daily basis or as needed from locations specified by County. Any courier and/or shipping costs incurred by Contractor shall be at no additional expense to County. All pickup costs shall be paid by Contractor. County will notify Contractor in writing of any changes in pickup locations or frequencies. Pickup locations may be added or deleted at any time during the term of the Contract.

4. Test Results Reporting

a. Contractor shall provide, at no additional expense to County, a facsimile report of "positive" test results to the appropriate clinic/service provider within seventy two (72) hours of specimen pickup for Drug Court or Perinatal and, within seven (7) days for the other units by Contractor/Courier. Negative test results shall be sent by mail. Facsimile locations and numbers are listed in Attachment D. County Drug Testing Locations; b. Contractor shall also provide the original of the test results by US mail or hand delivery to the appropriate clinic/service provider within seven (7) calendar days; c. County and Contractor may mutually agree in writing to revise the time frames and the methods of reporting test results; and d. Contractor shall identify the initial test and the alternative confirming test used for each of the drugs listed in Section 11885 of Title 17, California Code of Regulations.

5. Storage

a. Contractor shall store all specimens testing "negative" for forty eight (48) to seventy two (72) hours from date of report of test result; b. Contractor shall store all specimens testing "positive" or "diluted" in a manner acceptable to County for ninety (90) days from date of test result for purposes of potential re-test; and c. Upon written request by the appropriate clinic or service provider, some specimens may require longer storage due to extended court action.

6. Confirmation Requirements

a. Contractor shall have a clear process and standard procedure in place for confirming "positive" urine tests. Procedure shall include contact person, title, day and time contact is available; b. Contractor shall confirm all drug test result found to be "positive" with any substance in the full screen tests by a different analytical procedure in order to verify/confirm results. Results shall be verified/confirmed prior to notifying County of test results; and c. Additionally, in cases where any

urine test specimen results in a “diluted” finding, the County may request a different analytical procedure in order to verify/confirm whether or not the specimen contains one or more of the drugs listed in Attachment C.

7. Billing

Invoices are to be mailed monthly for the previous month's test for each pickup site to address listed in Attachment B. A master list of all tests conducted in the previous month sorted by patient/case number may also be required.

8. Court Appearance/Testimony

Contractor shall provide a technical representative for testimony at court trial occurrence upon request to present information to the court related to such topics as sample preparation, testing methodology, and chain of custody issues.

III. QUALITY ASSURANCE

Contractor shall permit periodic, unannounced visits to Contractor's laboratory by County for purposes of inspecting laboratory conditions, sample preparation/analysis, sample storage, and record keeping practices related to urinalysis samples submitted by the County.

Contractor shall adhere to County's quality control standards that include the following requirements:

1. Laboratory conditions shall be maintained in such a manner that the identification and integrity of each sample submitted will be preserved.
2. Contractor shall maintain, in a secure location in the laboratory, a written record for each sample submitted including date received, sample identification numbers, and listing of any Contractor employees involved in the handling, sample preparation or sample analysis of each specimen, including the results of the screen-tests and confirming test (in cases of positively screened samples). County records shall be kept separate from non-County records maintained by Contractor.
3. Stored “positive” and “diluted” samples must be secured in a locked freezer with a written evidence log that indicates date and time sample was stored; by whom it was stored; identification number of each sample; when, by whom and why it was removed (for re-testing, etc.); and, at the end of its retention period, when and by whom it was destroyed.
4. If sample result reporting turnaround time exceeds seventy two (72) hours from point of Contractor pick-up, County reserves the right to back out charges for the sample(s) analysis up to but not to exceed the contractually agreed upon rate for that particular sample's analysis. Penalty charge(s) shall not be assessed when County employees are not available to receive results, and may be waived by County Project Manager depending upon the cause and circumstances related to reporting delays past the seventy two (72) hour time frame.

ATTACHMENT B**COMPENSATION AND INVOICING****I. COMPENSATION**

This is a fixed price Contract not to exceed the amount \$200,000 for the yearly term of the Contract between the County and Contractor.

The Contractor agrees to accept the specified compensation as full remuneration for performing all services and furnishing all staffing and materials called for; for any reasonably foreseen difficulties under the responsibility of the Contractor which may arise or be encountered in the execution of the services until their acceptance; for risks connected with the services; and for performance by the Contractor of all of its duties and obligations hereunder. The fixed price shall include the fee and all expenses related to the performance of work and services required to meet the tasks and deliverables in the SOW, set forth more fully in Attachment A.

II. PAYMENT TERMS

Invoices are to be submitted in arrears to the address listed below. Payment of invoices will be net thirty (30) days after the receipt of an acceptable invoice submitted in accordance with the terms set forth herein. The invoice must be verified and approved by the County's Project Manager and is subject to routine processing requirements of the County. Invoices will not be paid if goods/services have not been appropriately delivered as determined by County Project Manager.

Billing shall cover only those services not previously invoiced. The Contractor shall reimburse the County for any monies paid to the Contractor for goods and/or services not provided or when goods and/or services do not meet the Contract requirements.

Payment made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the services.

III. PAYMENT (ELECTRONIC FUNDS TRANSFER) - INVOICING INSTRUCTIONS

The County offers contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County via an EFT Authorization Form. To request a form, please contact the agency/department representative listed in the Contract.

1. Invoices and all supporting documentation shall be submitted to County's Project Manager as follows:
 - County of Orange
 - HCA/ Accounts Payable
 - PO Box 689
 - Santa Ana, CA 92702
2. The Contractor shall provide a two-part invoice on the Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor shall leave an invoice with each delivery. Each invoice shall have a number and shall include the following information:
 - a. Contractor's Name and Address
 - b. Contractor's Remittance Address, if different from a, above
 - c. Contractor's Tax Identification Number(TIN) or Employer's Identification Number (EIN)
 - d. Name of County Agency
 - e. Delivery/Service Address
 - f. Master Agreement Number

- g. Description of Services;
- h. Sales Tax, if applicable
- i. Freight/Delivery Charges, if applicable
- j. Date(s) of Performance of Service
- k. Amount of Payment Requested

The responsibility for providing acceptable invoice(s) to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned.

ATTACHMENT C

PANEL COMPOSITION AND TEST FEE SCHEDULE

Prices shall include all labor, materials, equipment, insurance coverage, permits, licenses, preparation of all faxed and mailed/delivered reports and all other fees to provide the services specified herein.

Services shall be requested on an as-needed basis. Service locations, drugs, and test panels may be added or delete at any given time during the term of the Contract

The detection of each method shall be the lowest drug concentration that the laboratory can reliably detect in urine.

Cost for the Rapid Drug Screen Panel (includes 5 drugs) =
(Amphetamine/Methamphetamine, Benzodiazepines, Cocaine, THC, and Opiates): **\$ 7.85**

Cost for each drug test if ordered individually:

DRUG OR DRUG CLASS	INITIAL TEST			CONFIRMATION TEST		
	TEST USED	DETECTION LIMIT micrograms/ milliliter	COST	TEST USED	DETECTION LIMIT	COST
Amphetamines Amphetamine Methamphetamine	Immunoassay	1.0	\$1.57	GC/MS	0.5	\$0
Opiates Codeine Morphine	Immunoassay	0.3	\$1.57	GC/MS	0.2	\$0
Cocaine Benzoylecgonine	Immunoassay	0.3	\$1.57	GC/MS	0.15	\$0
Benzodiazepines Diazepam (Valium) Nordiazepam (metabolite of diazepam, Librium, and clorazepate) Oxazepam (Serax) (metabolite of diazepam) Temazepam (Restoril) 7-amino clonazepam (metabolite of chlonazepam) Alprazolam (Xanax) Alpha Hydroxy Alprazolam (metabolite of alprazolam) Desalkylflurazepam (metabolite of flurazepam) Midazolam (Versed) 7-amino Flunitrazepam	Immunoassay	0.2	\$1.57	LCMS/MS	0.05	\$0

	INITIAL TEST			CONFIRMATION TEST		
DRUG OR DRUG CLASS	TEST USED	DETECTION LIMIT micrograms/ milliliter	COST	TEST USED	DETECTION LIMIT	COST
Lorazepam (Ativan) Trizolam (Halcion) Alpha Hydroxy Triazolam (metabolite of triazolam)						
THC (Marijuana)	Immunoassay	0.05	\$1.57	GC/MS	0.025	\$0
SPECIAL TESTS BY REQUEST ONLY						
6-Monoacetylmorphine	Immunoassay	0.010	-	GC/MS	0.020	\$18.03
Alcohol	Immunoassay	100 mg/dL	-	GC	20mg/dL	\$7.85
Barbiturates Amobarbital Butalbital Pentobarbital Secobarbital Phenobarbital	Immunoassay	0.3 0.3 0.3 0.3 0.5	-	GC/MS	0.2	\$7.85
Buprenorphine	Immunoassay	0.005	-	GC		Send Out
Hydrocodone	Immunoassay	0.3	-	GC/MS	0.2	\$7.85
Fentanyl	Immunoassay	0.002	-	LCMS/MS	0.0005	\$18.03
MDMA	Immunoassay	0.5	-	GC/MS	0.5	\$7.85
Meperidine	Immunoassay	0.5	-	TLC	1.0	\$7.85
Methadone	Immunoassay	0.3	-	TLC	0.5	\$18.03
Oxycodone	Immunoassay	0.3	-	GC/MS	0.2	\$7.85
Phencyclidine	Immunoassay	0.025	-	GC/MS	0.025	\$18.03
Propoxyphene Norpropoxyphene	Immunoassay	0.3	-	TLC	1.0	\$7.85
Tramadol Screen	Immunoassay	0.2	-	GC/MS		Send Out

Drug Detection Level		
Drug	Screening Cut Off	Confirmatory Cut Off
Opiates	300	200
Phencyclidine	25	25
THC (Marijuana)	50	25

Attachment C

Cocaine	300	150
Amphetamines	1000	500
Benzodiazepines	200	50
Propoxyphene	300	1000
Barbiturates	300	Other Barbiturates: 200 Phenobarbital: 500

PRICING SCHEDULE			
(Includes confirmation testing on diluted results and specially requested testing)			
Drug Confirmation	Lab Code	CPT Code	Price
Amphetamines/methamphetamines	AMPCON	80324 (G0480)	\$7.85
Benzodiazepines	BENZMS	80347 (G0480)	\$7.85
Cocaine	COKCON	80353 (G0480)	\$7.85
Hydromorphone	DILAUD	80361 (G6058)	\$18.03
Opiates (codeine and morphine)	OPSCON	80361 (G0480)	\$7.85
THC (marijuana)	THCCON	80349 (G0480)	\$7.85

STAT courier fee: \$10

Additional tests not described in Attachment C shall be performed at prices equivalent to current year Medi-Cal reimbursement rates, current year Medicare reimbursement rates, or mutually agreed rates. In the event of conflict in pricing between Medi-Cal and Medicare rates, the order of precedence shall be Medi-Cal rates, Medicare rates, and then mutually agreed rates.

Tests sent to reference laboratory will be billed at reference laboratory current rate plus \$15 handling/processing fee. Contractor shall provide proof of pricing from the reference laboratory upon County's request.

No fee shall be charged to County for:

1. occasional appearance/testimony; or
2. confirmation tests on positive specimens; or
3. re-tests requested by County.

ATTACHMENT D
COUNTY DRUG TESTING LOCATIONS

Drug testing locations may be added or deleted at any given time throughout the term of the Contract.

Location	Phone	Fax	Contact Name
County Locations			
Aliso Viejo ADAS 5 Mareblu Aliso Viejo, CA 92656	949-643-6933	949-362-5834	Ian Kemmer
Aliso Viejo Perinatal Drug Testing 5 Mareblu Aliso Viejo, CA 92656	949-643-6933	949-362-5834	Ian Kemmer
Aliso Viejo Drug Court 5 Mareblu Aliso Viejo, CA 92656	949-643-6933	949-362-5834	Diane Holley
Santa Ana ADAS 1200 N. Main St, 3 rd floor Santa Ana, CA 92701	714-480-6735	714-568-4933	Ian Kemmer
Santa Ana Perinatal Drug Testing 1200 N. Main St, 3 rd floor Santa Ana, CA 92701	714-480-6735	714-568-4933	Ian Kemmer
West DUI Court 1200 N. Main St, 1 st floor, Room 100B Santa Ana, CA 92701 (Enter from outside on corner of Washington and Main)	714-480-6650	714-571-5659	Diane Holley (Domestic Violence) (DUI Drug Court)
Costa Mesa Drug Court 3115 Redhill Ave. Costa Mesa, CA 92626	714-850-8431	714-850-8492	Diane Holley (ADAS)
Anaheim ADAS 2035 E. Ball Rd, 100A Anaheim, CA 92806	714-517-6140	714-517-6169	Gail LaPorte
Anaheim North Drug Court & DUI 2035 E. Ball Rd, 100A Anaheim, CA 92806	714-480-6650	714-480-6799	Diane Holley (North DUI)
Anaheim Perinatal Drug Testing 2035 E. Ball Rd, 100A Anaheim, CA 92806	714-517-6175	714-517-6169	Gail LaPorte
Westminster Perinatal Drug Testing 14140 Beach Blvd., #120 Westminster, CA 92863 (enter at North end of building, closest to 15 th St)	714-934-4600	714-934-4649	Gail LaPorte

Location	Phone	Fax	Contact Name
County Locations			
Westminster ADAS & Drug Court 14140 Beach Blvd., 2 nd floor Westminster, CA 92863	714-896-7518 (Drug Court) (Domestic Violence)	714-896-7332	Diane Holley
County Justice Contract Providers			
Casa Elena Recovery Home 832 S. Anaheim Blvd Anaheim, CA 92805	714-772-5580	714-772-1685	
Unidos Recovery House 9842 W. 13 th St., Suite B Garden Grove, CA 92844	714-531-4624	714-531-1189	
Woodglen Recovery and Detox 771 W. Orangethorpe Fullerton, CA 92632	714-879-2741	714-578-2960	
Hope House 707 N. Anaheim Blvd. Anaheim, CA 92805	714-776-7490	714-776-8650	
Heritage House North 321 N. State College Anaheim, CA 92806	714-687-0077	714-687-0691	
Heritage House 2212 Placentia Ave. Costa Mesa, CA 92627	949-646-2271	714-646-1211	
Gerry House 1225 W. 6 th Street Santa Ana, CA 92703	714-972-1402 (West)	714-972-1519	
Start House 808 LaVergne Way Santa Ana, CA 92703	714-554-1237	714-554-8273	
Villa Center 910 N. French St Santa Ana, CA 92701	714-541-2732	714-541-2771	
La Familia 1905 N. College Ave Santa Ana, CA 92706	714-479-0120	714-479-0153	
Mariposa Women's Center 812 Town & Country Rd Orange, CA 92868	714-547-6494	714-547-9990	
Roque Center 9843 W. 13 th St Garden Grove, CA 92844 County of Orange Health Care Agency	714-839-0607	714-839-5396	

Attachment C

<u>Location</u>	<u>Phone</u>	<u>Fax</u>	<u>Contact Name</u>
Touchstone 900 Each Chapman Avenue Orange, CA 92866	714-639-5542	714-639-5037	
Phoenix House 1207 E. Fruit St Santa Ana, CA 92701	714-953-9373	714-953-7573	

ATTACHMENT E
BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

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

2. The Parties agree that a business associate relationship under HIPAA, the HITECH Act, and the HIPAA regulations between the Contractor and County arises to the extent that Contractor performs, or delegates to subcontractors to perform, functions or activities on behalf of County pursuant to, and as set forth in, the Contract MA-042-16011547 that are described in the definition of “Business Associate” in 45 CFR § 160.103.

3. The County wishes to disclose to Contractor certain information pursuant to the terms of the Contract MA-042-16011547, some of which may constitute Protected Health Information (“PHI”), as defined below in Subparagraph B.10, to be used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the Contract MA-042-16011547.

4. The Parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Contract MA-042-16011547 in compliance with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH Act, and the HIPAA regulations as they may exist now or be hereafter amended.

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

6. The Parties understand that the HIPAA Privacy and Security rules, as defined below in Subparagraphs B.9 and B.14, apply to the Contractor in the same manner as they apply to a covered entity (County). Contractor agrees therefore to be in compliance at all times with the terms of this Business Associate Contract and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and electronic PHI created,

received, maintained, transmitted, used, or disclosed pursuant to the Contract MA-042-16011547.

B. DEFINITIONS

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

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

a. Breach excludes:

i. Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of Contractor or County, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.

ii. Any inadvertent disclosure by a person who is authorized to access PHI at Contractor to another person authorized to access PHI at the Contractor, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.

iii. A disclosure of PHI where Contractor or County has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

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

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

ii. The unauthorized person who used the PHI or to whom the disclosure was made;

iii. Whether the PHI was actually acquired or viewed; and

iv. The extent to which the risk to the PHI has been mitigated.

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

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

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

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

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

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

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

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

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

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

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

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

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

16. "Technical safeguards" means the technology and the policy and procedures for its

use that protect electronic PHI and control access to it.

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

18. “Use” shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:

1. Contractor agrees not to use or further disclose PHI County discloses to Contractor other than as permitted or required by this Business Associate Contract or as required by law.

2. Contractor agrees to use appropriate safeguards, as provided for in this Business Associate Contract and the Contract MA-042-16011547, to prevent use or disclosure of PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County other than as provided for by this Business Associate Contract.

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

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

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

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

7. Contractor agrees to provide access, within fifteen (15) calendar days of receipt of a written request by County, to PHI in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under 45 CFR § 164.524.

8. Contractor agrees to make any amendment(s) to PHI in a Designated Record Set

that County directs or agrees to pursuant to 45 CFR § 164.526 at the request of County or an Individual, within thirty (30) calendar days of receipt of said request by County. Contractor agrees to notify County in writing no later than ten (10) calendar days after said amendment is completed.

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

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

11. Contractor agrees to provide County or an Individual, as directed by County, in a time and manner to be determined by County, that information collected in accordance with the Contract MA-042-16011547, in order to permit County to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

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

13. Contractor shall work with County upon notification by Contractor to County of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph B.2.a above.

D. SECURITY RULE

1. Contractor shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR § 164.308, § 164.310, § 164.312, and § 164.316 with respect to electronic PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County. Contractor shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

2. Contractor shall ensure that any subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of Contractor agree through a contract with Contractor to the same restrictions and requirements contained in this Paragraph D of this Business Associate

Contract.

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

E. BREACH DISCOVERY AND NOTIFICATION

1. Following the discovery of a Breach of Unsecured PHI , Contractor shall notify County of such Breach, however both Parties agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR § 164.412.

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

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

2. Contractor shall provide the notification of the Breach immediately to the County Privacy Officer at

County Privacy Officer	Interim County Privacy Officer	HCA Information Technology Security Officer
Not Available	Linda Le, CHP, CHPC (714) 834-4082 1400 S. Grand Ave., Santa Ana, CA 92705 Linda.Le@ceoit.ocgov.com	David Castellanos (714) 834-3433 200 W. Santa Ana Blvd., 10 th Floor Santa Ana, CA 92701 dcastellanos@ochca.com

a. Contractor's notification may be oral, but shall be followed by written notification within twenty-four (24) hours of the oral notification.

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

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

b. Any other information that County is required to include in the notification to Individual under 45 CFR §164.404 (c) at the time Contractor is required to notify County or

promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 CFR § 164.410 (b) has elapsed, including:

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

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

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

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

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

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

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

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

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

8. Contractor shall continue to provide all additional pertinent information about the Breach to County as it may become available, in reporting increments of five (5) business days after the last report to County. Contractor shall also respond in good faith to any reasonable requests for further information, or follow-up information after report to County, when such

request is made by County.

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

F. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

1. Contractor may use or further disclose PHI County discloses to Contractor as necessary to perform functions, activities, or services for, or on behalf of, County as specified in the Contract MA-042-16011547, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by County except for the specific Uses and Disclosures set forth below.

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

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

i. The Disclosure is required by law; or

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

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

2. Contractor may use PHI County discloses to Contractor, if necessary, to carry out legal responsibilities of Contractor.

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

4. Contractor may use or disclose PHI County discloses to Contractor as required by law.

G. OBLIGATIONS OF COUNTY

1. County shall notify Contractor of any limitation(s) in County's notice of privacy

practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Contractor's Use or Disclosure of PHI.

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

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

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

H. BUSINESS ASSOCIATE TERMINATION

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

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

b. Immediately terminate the Contract MA-042-16011547, if Contractor is unwilling or unable to cure the material breach or end the violation within thirty (30) days, provided termination of the Contract MA-042-16011547 is feasible.

2. Upon termination of the Contract MA-042-16011547, Contractor shall either destroy or return to County all PHI Contractor received from County or Contractor created, maintained, or received on behalf of County in conformity with the HIPAA Privacy Rule.

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

b. Contractor shall retain no copies of the PHI.

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

3. The obligations of this Business Associate Contract shall survive the termination of the Contract MA-042-16011547.