

1 AGREEMENT FOR PROVISION OF  
2 BEHAVIORAL HEALTH OUTPATIENT SERVICES FOR CHILDREN AND YOUTH  
3 BETWEEN  
4 COUNTY OF ORANGE  
5 AND  
6 PATHWAYS COMMUNITY SERVICES, LLC  
7 JULY 1, 2018 THROUGH JUNE 30, 2021  
8

9 THIS AGREEMENT entered into this 1st day of July 2018 (effective date), is by and between the  
10 COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and PATHWAYS  
11 COMMUNITY SERVICES, LLC, a Delaware limited liability company (CONTRACTOR). COUNTY  
12 and CONTRACTOR may sometimes be referred to herein individually as "Party" or collectively as  
13 "Parties." This Agreement shall be administered by the County of Orange Health Care Agency  
14 (ADMINISTRATOR).  
15

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

18 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Behavioral  
19 Health Outpatient Services for Children and Youth described herein to the residents of Orange County;  
20 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**

**Term:** July 1, 2018 through June 30, 2021

Period One means the period from July 1, 2018 through June 30, 2019

Period Two means the period from July 1, 2019 through June 30, 2020

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

**Maximum Obligation:**

Period One Maximum Obligation: \$1,560,672

Period Two Maximum Obligation: 1,560,672

Period Three Maximum Obligation: 1,560,672

TOTAL MAXIMUM OBLIGATION: \$4,682,016

**Basis for Reimbursement:** Actual Cost

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS Number:** 92-958-0897

**CONTRACTOR TAX ID Number:** 33-0797276

**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: Pathways Community Services, LLC  
4281 Katella Avenue, Suite 201  
Los Alamitos, CA 90720  
Attention Gail Laporte, California State Director  
E-mail: [gail.laporte@pathways.com](mailto:gail.laporte@pathways.com)

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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  |              |  |
| 2  |              |  |
| 3  |              |  |
| 4  | A. AES       | Advanced Encryption Standard   |
| 5  | B. AIDS      | Acquired Immune Deficiency Syndrome                                      |
| 6  | C. ARRA      | American Recovery and Reinvestment Act of 2009                           |
| 7  | D. BBS       | Board of Behavioral Sciences   |
| 8  | E. BCP       | Business Continuity Plan   |
| 9  | F. BHS       | Behavioral Health Services   |
| 10 | G. CalOPTIMA | California Orange Prevention and Treatment Integrated Medical Assistance |
| 11 | H. CAP       | Corrective Action Plan   |
| 12 | I. CCC       | California Civil Code  |
| 13 | J. CCR       | California Code of Regulations   |
| 14 | K. CD/DVD    | Compact Disc/Digital Video or Versatile Disc                             |
| 15 | L. CEO       | County Executive Office  |
| 16 | M. CFDA      | Catalog of Federal Domestic Assistance                                   |
| 17 | N. CFR       | Code of Federal Regulations  |
| 18 | O. CHDP      | Child Health and Disability Prevention                                   |
| 19 | P. CHHS      | California Health and Human Services Agency                              |
| 20 | Q. CHPP      | COUNTY HIPAA Policies and Procedures                                     |
| 21 | R. CHS       | Correctional Health Services   |
| 22 | S. CIPA      | California Information Practices Act                                     |
| 23 | T. CMPPA     | Computer Matching and Privacy Protection Act                             |
| 24 | U. COI       | Certificate of Insurance   |
| 25 | V. CPA       | Certified Public Accountant  |
| 26 | W. CSW       | Clinical Social Worker   |
| 27 | X. CYBHS     | Children and Youth Behavioral Health Services                            |
| 28 | Y. DD        | Dually Diagnosed   |
| 29 | Z. DEA       | Drug Enforcement Agency  |
| 30 | AA. DHCS     | California Department of Health Care Services                            |
| 31 | AB. DSH      | Direct Service Hours   |
| 32 | AC. D/MC     | Drug/Medi-Cal  |
| 33 | AD. DoD      | US Department of Defense   |
| 34 | AE. DPFS     | Drug Program Fiscal Systems  |
| 35 | AF. DRP      | Disaster Recovery Plan   |
| 36 | AG. DRS      | Designated Record Set  |
| 37 | AH. DSM-V    | Diagnostic and Statistical Manual of Mental Disorders. 5th Edition       |

|    |                |   |
|----|----------------|---|
| 1  | AI. EHR        | Electronic Health Records   |
| 2  | AJ. E-Mail     | Electronic Mail   |
| 3  | AK. ePHI       | Electronic Protected Health Information                               |
| 4  | AL. EPSDT      | Early and Periodic Screening, Diagnosis, and Treatment                |
| 5  | AM. FIPS       | Federal Information Processing Standards                              |
| 6  | AN. FQHC       | Federally Qualified Health Center                                     |
| 7  | AO. FSP        | Full Service Partnership  |
| 8  | AP. FTE        | Full Time Equivalent  |
| 9  | AQ. GAAP       | Generally Accepted Accounting Principles                              |
| 10 | AR. HCA        | County of Orange Health Care Agency                                   |
| 11 | AS. HHS        | Federal Health and Human Services Agency                              |
| 12 | AT. HIPAA      | Health Insurance Portability and Accountability Act of 1996, Public U |
| 13 |                | Law 104-191   |
| 14 | AU. HITECH ACT | Health Information Technology for Economic and Clinical Health        |
| 15 |                | Act, Public Law 111-005   |
| 16 | AV. HSC        | California Health and Safety Code                                     |
| 17 | AW. ICC        | Intensive Care Coordination   |
| 18 | AX. ID         | Identification  |
| 19 | AY. IEA        | Information Exchange Agreement  |
| 20 | AZ. IHBS       | Intensive Home Based Services   |
| 21 | BA. IRIS       | Integrated Records and Information System                             |
| 22 | BB. ISO        | Insurance Services Office   |
| 23 | BC. LCSW       | Licensed Clinical Social Worker                                       |
| 24 | BD. LMFT       | Licensed Marriage and Family Therapist                                |
| 25 | BE. LPCC       | Licensed Professional Clinical Counselor                              |
| 26 | BF. LPT        | Licensed Psychiatric Technician                                       |
| 27 | BG. LVN        | Licensed Vocational Nurse   |
| 28 | BH. MH         | Mental Health   |
| 29 | BI. MHP        | Mental Health Plan  |
| 30 | BJ. MHRC       | Mental Health Rehabilitation Centers                                  |
| 31 | BK. MHS        | Mental Health Specialist  |
| 32 | BL. MHSA       | Mental Health Services Act  |
| 33 | BM. MTP        | Master Treatment Plan   |
| 34 | BN. NA         | Narcotics Anonymous   |
| 35 | BO. NIATx      | Network Improvement of Addiction Treatment                            |
| 36 | BP. NIH        | National Institutes of Health   |
| 37 | BQ. NIST       | National Institute of Standards and Technology                        |

|    |             |   |
|----|-------------|---|
| 1  | BR. NOA     | Notice of Action  |
| 2  | BS. NP      | Nurse Practitioner  |
| 3  | BT. NPI     | National Provider Identifier                              |
| 4  | BU. NPP     | Notice of Privacy Practices                               |
| 5  | BV. OCEMS   | Orange County Emergency Medical Services                  |
| 6  | BW. OCPD    | Orange County Probation Department                        |
| 7  | BX. OIG     | Federal Office of Inspector General                       |
| 8  | BY. OMB     | Federal Office of Management and Budget                   |
| 9  | BZ. OPM     | Federal Office of Personnel Management                    |
| 10 | CA. OQ      | Outcome Questionnaire                                     |
| 11 | CB. P&P     | Policy and Procedure                                      |
| 12 | CC. PA DSS  | Payment Application Data Security Standard                |
| 13 | CD. PBM     | Pharmaceutical Benefits Management                        |
| 14 | CE. PC      | California Penal Code                                     |
| 15 | CF. PCI DSS | Payment Card Industry Data Security Standard              |
| 16 | CG. PCP     | Primary Care Provider                                     |
| 17 | CH. PHI     | Protected Health Information                              |
| 18 | CI. PI      | Personal Information                                      |
| 19 | CJ. PII     | Personally Identifiable Information                       |
| 20 | CK. POC     | Plan of Care  |
| 21 | CL. PRA     | California Public Records Act                             |
| 22 | CM. QI      | Quality Improvement                                       |
| 23 | CN. QIC     | Quality Improvement Committee                             |
| 24 | CO. RN      | Registered Nurse  |
| 25 | CP. SAMHSA  | Substance Abuse and Mental Health Services Administration |
| 26 | CQ. SD/MC   | Short-Doyle Medi-Cal                                      |
| 27 | CR. SIR     | Self-Insured Retention                                    |
| 28 | CS. SSA     | County of Orange Social Services Agency                   |
| 29 | CT. SUD     | Substance Use Disorder                                    |
| 30 | CU. TAY     | Transitional Age Youth                                    |
| 31 | CV. TBS     | Therapeutic Behavioral Services                           |
| 32 | CW. TCM     | Targeted Case Management                                  |
| 33 | CX. TFC     | Therapeutic Foster Care                                   |
| 34 | CY. UMDAP   | Uniform Method of Determining Ability to Pay              |
| 35 | CZ. UOS     | Units of Service  |
| 36 | DA. USC     | United States Code  |
| 37 | //          |   |

1 DB. W&IC California Welfare and Institutions Code  
2 DC. WIC Women, Infants and Children  
3

4 **II. ALTERATION OF TERMS**

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

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

12  
13 **III. ASSIGNMENT OF DEBTS**

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

21  
22 **IV. COMPLIANCE**

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

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

29 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own  
30 Compliance Program, Code of Conduct and any Compliance related policies and procedures.  
31 CONTRACTOR's Compliance Program, Code of Conduct and any related policies and procedures shall  
32 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required  
33 elements by ADMINISTRATOR's Compliance Officer as described in this Paragraph IV  
34 (COMPLIANCE). These elements include:

- 35 a. Designation of a Compliance Officer and/or compliance staff.
- 36 b. Written standards, policies and/or procedures.
- 37 c. Compliance related training and/or education program and proof of completion.



- d. Communication methods for reporting concerns to the Compliance Officer.
- e. Methodology for conducting internal monitoring and auditing.
- f. Methodology for detecting and correcting offenses.
- g. Methodology/Procedure for enforcing disciplinary standards.

3. If CONTRACTOR does not provide proof of its own Compliance program to ADMINISTRATOR, CONTRACTOR shall acknowledge to comply with ADMINISTRATOR's Compliance Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement a signed acknowledgement that CONTRACTOR shall comply with ADMINISTRATOR's Compliance Program and Code of Conduct.

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

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

**B. SANCTION SCREENING –** CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Agreement semi-annually to ensure that they are not designated as Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against the General Services Administration's Excluded Parties List System or System for Award Management, the Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities, the California Medi-Cal Suspended and Ineligible Provider List, and the Social Security Administration Death Master File and/or any other list or system as identified by the ADMINISTRATOR.

1. For purposes of this Paragraph IV (COMPLIANCE), Covered Individuals includes all employees, interns, volunteers, contractors, subcontractors, agents, and other persons who provide

1 health care items or services or who perform billing or coding functions on behalf of  
2 ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem  
3 employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to  
4 work more than one hundred sixty (160) hours per year; except that any such individuals shall become  
5 Covered Individuals at the point when they work more than one hundred sixty (160) hours during the  
6 calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are  
7 made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and  
8 procedures (or CONTRACTOR's own compliance program, code of conduct and related policies and  
9 procedures if CONTRACTOR has elected to use its own).

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

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

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

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

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

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

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

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

1 screened. Such individual or entity shall be immediately removed from participating in any activity  
2 associated with this Agreement. ADMINISTRATOR will determine appropriate repayment from, or  
3 sanction(s) to CONTRACTOR for services provided by ineligible person or individual.  
4 CONTRACTOR shall promptly return any overpayments within forty-five (45) business days after the  
5 overpayment is verified by ADMINISTRATOR.

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

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

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

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

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

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

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

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

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

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

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

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

36 //

37 //

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

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

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

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

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

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

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

24  
25 **V. CONFIDENTIALITY**

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

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

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

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

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

11 C. CONTRACTOR shall have in effect a system to protect patient records from inappropriate  
12 disclosure in connection with activity funded under this Agreement. This system shall include  
13 provisions for employee education on the confidentiality requirements, and the fact that disciplinary  
14 action may occur upon inappropriate disclosure. CONTRACTOR agrees to implement administrative,  
15 physical, and technical safeguards that reasonably and appropriately protect the confidentiality,  
16 integrity, and availability of all confidential information that it creates, receives, maintains or transmits.  
17 CONTRACTOR shall provide ADMINISTRATOR with information concerning such safeguards.

18 D. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known  
19 to CONTRACTOR, or its subcontractors or agents in violation of the applicable state and federal  
20 regulations regarding confidentiality.

21 E. CONTRACTOR shall monitor compliance with the above provisions on confidentiality and  
22 security, and shall include them in all subcontracts.

23 F. CONTRACTOR shall notify ADMINISTRATOR within twenty-four (24) hours during a work  
24 week, of any suspected or actual breach of its computer system.

25  
26 **VI. COST REPORT**

27 A. CONTRACTOR shall submit separate individual and/or consolidated Cost Reports for Period  
28 One, Period Two, and Period Three, or for a portion thereof, to COUNTY no later than sixty (60)  
29 calendar days following the period for which they are prepared or termination of this Agreement.  
30 CONTRACTOR shall prepare the individual and/or consolidated Cost Report in accordance with all  
31 applicable federal, state and COUNTY requirements, GAAP and the Special Provisions Paragraph of  
32 this Agreement. CONTRACTOR shall allocate direct and indirect costs to and between programs, cost  
33 centers, services, and funding sources in accordance with such requirements and consistent with prudent  
34 business practice, which costs and allocations shall be supported by source documentation maintained  
35 by CONTRACTOR, and available at any time to ADMINISTRATOR upon reasonable notice. In the  
36 event CONTRACTOR has multiple Agreements for mental health services that are administered by  
37 HCA, consolidation of the individual Cost Reports into a single consolidated Cost Report may be

1 required, as stipulated by ADMINISTRATOR. CONTRACTOR shall submit a consolidated Cost  
2 Report to COUNTY no later than five (5) business days following approval by ADMINSTRATOR of  
3 all individual Cost Reports to be incorporated into a consolidated Cost Report.

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

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

12 b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR  
13 pursuant to any or all agreements between COUNTY and CONTRACTOR until such time that the  
14 accurate and complete individual and/or consolidated Cost Report is delivered to ADMINISTRATOR.

15 2. CONTRACTOR may request, in advance and in writing, an extension of the due date of the  
16 individual and/or consolidated Cost Report setting forth good cause for justification of the request.  
17 Approval of such requests shall be at the sole discretion of ADMINISTRATOR and shall not be  
18 unreasonably denied.

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

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

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

1 to reduce any amount owed CONTRACTOR by an amount not to exceed the reimbursement due  
2 COUNTY.

3 D. Unless approved by ADMINISTRATOR, costs that exceed the Statewide Maximum Allowance  
4 (SMA) rates per Medi-Cal Unit of Services, as determined by the DHCS, shall be unreimbursable to  
5 CONTRACTOR.

6 E. In the event that CONTRACTOR is authorized to retain unanticipated revenues as described in  
7 the Budget Paragraph of Exhibit A to this Agreement, CONTRACTOR shall specify in the individual  
8 and/or consolidated Cost Report the services rendered with such revenues.

9 F. All individual and/or consolidated Cost Reports shall contain the following attestation, which  
10 may be typed directly on or attached to the Cost Report:

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

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

25  
26 **VII. DEBARMENT AND SUSPENSION CERTIFICATION**

27 A. CONTRACTOR certifies that it and its principals:

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

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

36 //

37 //

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

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

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

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

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

16  
17 **VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

23 B. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the  
24 prior written consent of COUNTY.

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

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

37 //



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

18 1. After approval of a subcontract, ADMINISTRATOR may revoke the approval of a  
19 subcontract upon five (5) calendar days’ written notice to CONTRACTOR if the subcontract  
20 subsequently fails to meet the requirements of this Agreement or any provisions that  
21 ADMINISTRATOR has required.

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

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

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

29  
30 **IX. EMPLOYEE ELIGIBILITY VERIFICATION**

31 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and  
32 regulations regarding the employment of aliens and others and to ensure that employees, subcontractors,  
33 and consultants performing work under this Agreement meet the citizenship or alien status requirements  
34 set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,  
35 subcontractors, and consultants performing work hereunder, all verification and other documentation of  
36 employment eligibility status required by federal or state statutes and regulations including, but not  
37 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently

1 exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all  
 2 covered employees, subcontractors, and consultants for the period prescribed by the law.

### 4 **X. EQUIPMENT**

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

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

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

26 D. CONTRACTOR shall maintain an inventory of all Equipment purchased in whole or in part  
 27 with funds paid through this Agreement, including date of purchase, purchase price, serial number,  
 28 model and type of Equipment. Such inventory shall be available for review by ADMINISTRATOR,  
 29 and shall include the original purchase date and price, useful life, and balance of depreciated Equipment  
 30 cost, if any.

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

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

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

5 H. CONTRACTOR shall maintain and administer a sound business program for ensuring the  
6 proper use, maintenance, repair, protection, insurance, and preservation of COUNTY Equipment.  
7

8 **XI. FACILITIES, PAYMENTS AND SERVICES**

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

14 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or  
15 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Maximum Obligation  
16 for the appropriate Period as well as the Total Maximum Obligation. The reduction to the Maximum  
17 Obligation for the appropriate Period as well as the Total Maximum Obligation shall be in an amount  
18 proportionate to the number of days in which CONTRACTOR was determined to be unable to provide  
19 services, staffing, facilities or supplies.  
20

21 **XII. INDEMNIFICATION AND INSURANCE**

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

32 B. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all  
33 required insurance at CONTRACTOR's expense and to submit to COUNTY the COI, including all  
34 endorsements required herein, necessary to satisfy COUNTY that the insurance provisions of this  
35 Agreement have been complied with and to maintain such insurance coverage with COUNTY during  
36 the entire term of this Agreement. In addition, all subcontractors performing work on behalf of  
37 //

1 CONTRACTOR pursuant to this Agreement shall obtain insurance subject to the same terms and  
2 conditions as set forth herein for CONTRACTOR.

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

12 D. All SIRs and deductibles shall be clearly stated on the COI. If no SIRs or deductibles apply,  
13 indicate this on the COI with a zero (0) by the appropriate line of coverage. Any SIR or deductible in an  
14 amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the  
15 CEO/Office of Risk Management upon review of CONTRACTOR's current audited financial report. If  
16 CONTRACTOR's SIR is approved, CONTRACTOR, in addition to, and without limitation of, any  
17 other indemnity provision(s) in this Agreement, agrees to all of the following:

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

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

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

27 E. If CONTRACTOR fails to maintain insurance as required in this Paragraph XII  
28 (INDEMNIFICATION AND INSURANCE) for the full term of this Agreement, such failure shall  
29 constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to terminate  
30 this Agreement.

31 F. QUALIFIED INSURER

32 1. The policy or policies of insurance must be issued by an insurer with a minimum rating of  
33 A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current  
34 edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred,  
35 but not mandatory, that the insurer be licensed to do business in the state of California (California  
36 Admitted Carrier).

37 //

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

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

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

H. REQUIRED COVERAGE FORMS

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

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

I. REQUIRED ENDORSEMENTS

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

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

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

4 2. The Network Security and Privacy Liability policy shall contain the following  
5 endorsements which shall accompany the Certificate of Insurance:

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

8 b. A primary and non-contributing endorsement evidencing that the Contractor's  
9 insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be  
10 excess and non-contributing.

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

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

18 L. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy  
19 cancellation and within ten (10) days for non-payment of premium and provide a copy of the  
20 cancellation notice to COUNTY. Failure to provide written notice of cancellation shall constitute a  
21 breach of CONTRACTOR's obligation hereunder and ground for COUNTY to terminate this  
22 Agreement.

23 M. If CONTRACTOR's Professional Liability and Network Security & Privacy Liability are  
24 "Claims Made" policy(ies), CONTRACTOR shall agree to maintain coverage for two (2) years  
25 following the completion of the Agreement.

26 N. The Commercial General Liability policy shall contain a "severability of interests" clause also  
27 known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

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

32 P. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If  
33 CONTRACTOR does not deposit copies of acceptable COIs and endorsements with COUNTY  
34 incorporating such changes within thirty (30) calendar days of receipt of such notice, such failure shall  
35 constitute a breach of CONTRACTOR's obligation hereunder and ground for termination of this  
36 Agreement by COUNTY.

37 //

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

4 R. SUBMISSION OF INSURANCE DOCUMENTS

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

- 6 a. Prior to the start date of this Agreement.
- 7 b. No later than the expiration date for each policy.
- 8 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding  
9 changes to any of the insurance types as set forth in Subparagraph G, above.

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

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

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

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

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

25 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any  
26 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs  
27 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.  
28

29 **XIII. INSPECTIONS AND AUDITS**

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

1 reasonable times inspect or otherwise evaluate the services provided pursuant to this Agreement, and the  
2 premises in which they are provided.

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

7 C. AUDIT RESPONSE

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

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

20 D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare an annual  
21 Single Audit as required by 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR  
22 Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal  
23 Awards. CONTRACTOR shall forward the Single Audit to ADMINISTRATOR within fourteen (14)  
24 calendar days of receipt.

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

30 **XIV. LICENSES AND LAWS**

31 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout  
32 the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates,  
33 accreditations, waivers, and exemptions necessary for the provision of the services hereunder and  
34 required by the laws, regulations and requirements of the United States, the State of California,  
35 COUNTY, and all other applicable governmental agencies. CONTRACTOR shall notify  
36 ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the  
37 //



1 pendency of any hearings or appeals, permits, licenses, approvals, certificates, accreditations, waivers  
2 and exemptions. Said inability shall be cause for termination of this Agreement.

3 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

- 23 1. ARRA of 2009.
- 24 2. W&IC, Division 5, Community Mental Health Services.
- 25 3. W&IC, Division 6, Admissions and Judicial Commitments.
- 26 4. W&IC, Division 7, Mental Institutions.
- 27 5. HSC, §§1250 et seq., Health Facilities.
- 28 6. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 29 7. CCR, Title 9, Rehabilitative and Developmental Services.
- 30 8. CCR, Title 17, Public Health.
- 31 9. CCR, Title 22, Social Security.
- 32 10. CFR, Title 42, Public Health.
- 33 11. CFR, Title 45, Public Welfare.
- 34 12. USC Title 42. Public Health and Welfare.
- 35 13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 36 14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 37 15. 42 USC §1857, et seq., Clean Air Act.

- 1 16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 2 17. Policies and procedures set forth in Mental Health Services Act.
- 3 18. Policies and procedures set forth in DHCS Letters.
- 4 19. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 5 20. 31 USC 7501–7507, as well as its implementing regulations under 2 CFR Part 200,
- 6 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for
- 7 Federal Awards.
- 8 21. California Welfare and Institutions Code, §14100.2, Medicaid Confidentiality.
- 9 22. D/MC Certification Standards for Substance Abuse Clinics, July 2004.
- 10 23. D/MC Billing Manual (March 23, 2010).
- 11 24. Federal Medicare Cost reimbursement principles and cost reporting standards.
- 12 25. State of California-Health and Human Services Agency, Department of Health Care
- 13 Services, Mental Health Services Division (MHSD), Medi-Cal Billing Manual,
- 14 October 2013.
- 15 26. Orange County Medi-Cal Mental Health Managed Care Plan.
- 16 27. Short Doyle/Medi-Cal Manual for the Rehabilitation Option and Targeted Case
- 17 Management.
- 18 28. Short-Doyle/Medi-Cal Modifications/Revisions for the Rehabilitation Option and Targeted
- 19 Case Management Manual, including DMH Letter 94-14, dated July 7, 1994, DMH Letter
- 20 No. 95-04, dated July 27, 1995, DMH Letter 96-03, dated August 13, 1996.

21 D. CONTRACTOR shall at all times be capable and authorized by the State of California to  
 22 provide treatment and bill for services provided to Medi-Cal eligible clients while working under the  
 23 terms of this Agreement.

24 E. CONTRACTOR shall make every reasonable effort to obtain appropriate licenses and/or  
 25 waivers to provide Medi-Cal billable treatment services at school or other sites requested by  
 26 ADMINISTRATOR.

27  
 28 **XV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

1 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly  
2 available social media sites) in support of the services described within this Agreement,  
3 CONTRACTOR shall develop social media policies and procedures and have them available to  
4 ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all  
5 forms of social media used to either directly or indirectly support the services described within this  
6 Agreement. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as  
7 they pertain to any social media developed in support of the services described within this Agreement.  
8 CONTRACTOR shall also include any required funding statement information on social media when  
9 required by ADMINISTRATOR.

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

12  
13 **XVI. MAXIMUM OBLIGATION**

14 A. The Total Maximum Obligation of COUNTY for services provided in accordance with this  
15 Agreement, and the separate Maximum Obligations for each period under this Agreement, are as  
16 specified in the Referenced Contract Provisions of this Agreement, except as allowed for in  
17 Subparagraph B. below.

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

20  
21 **XVII. MINIMUM WAGE LAWS**

22 A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and  
23 State of California Labor Code, §1178.5, CONTRACTOR shall pay no less than the greater of the  
24 federal or California Minimum Wage to all its employees that directly or indirectly provide services  
25 pursuant to this Agreement, in any manner whatsoever. CONTRACTOR shall require and verify that  
26 all its contractors or other persons providing services pursuant to this Agreement on behalf of  
27 CONTRACTOR also pay their employees no less than the greater of the federal or California Minimum  
28 Wage.

29 B. CONTRACTOR shall comply and verify that its contractors comply with all other federal and  
30 State of California laws for minimum wage, overtime pay, record keeping, and child labor standards  
31 pursuant to providing services pursuant to this Agreement.

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

36 //  
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**XVIII. NONDISCRIMINATION**

**A. EMPLOYMENT**

1  
2  
3 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals shall not  
4 unlawfully discriminate against any employee or applicant for employment because of his/her race,  
5 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,  
6 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
7 orientation, or military and veteran status. Additionally, during the term of this Agreement,  
8 CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall  
9 not unlawfully discriminate against any employee or applicant for employment because of his/her race,  
10 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,  
11 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
12 orientation, or military and veteran status.

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

17 3. CONTRACTOR shall not discriminate between employees with spouses and employees  
18 with domestic partners, or discriminate between domestic partners and spouses of those employees, in  
19 the provision of benefits.

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

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

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

34 **B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not**  
35 **discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities**  
36 **on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental**  
37 **disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender**

1 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the  
 2 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights  
 3 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division  
 4 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the  
 5 Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other  
 6 pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and  
 7 regulations, as all may now exist or be hereafter amended or changed. For the purpose of this  
 8 Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one  
 9 or more of the factors identified above:

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

19 C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all clients  
 20 through a written statement that CONTRACTOR’s and/or subcontractor’s clients may file all  
 21 complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and  
 22 ADMINISTRATOR or COUNTY’s Patient Rights Office.

23 1. Whenever possible, problems shall be resolved informally and at the point of service.  
 24 CONTRACTOR shall establish an internal informal problem resolution process for clients not able to  
 25 resolve such problems at the point of service. Clients may initiate a grievance or complaint directly with  
 26 CONTRACTOR either orally or in writing.

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

29 b. Throughout the problem resolution and grievance process, client rights shall be  
 30 maintained, including access to the Patients’ Rights Office at any point in the process. Clients shall be  
 31 informed of their right to access the Patients’ Rights Office at any time.

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

34 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply  
 35 with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as  
 36 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended  
 37 (42 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of

1 discrimination against qualified persons with disabilities in all programs or activities; and if applicable,  
2 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together  
3 with succeeding legislation.

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

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

13 **XIX. NOTICES**

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

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

19 2. When faxed, transmission confirmed;

20 3. When sent by Email; or

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

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

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

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

33  
34 **XX. NOTIFICATION OF DEATH**

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

37 //

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

4 1. TELEPHONE NOTIFICATION – CONTRACTOR shall notify ADMINISTRATOR by  
5 telephone immediately upon becoming aware of the death due to non-terminal illness of any person  
6 served pursuant to this Agreement; provided, however, weekends and holidays shall not be included for  
7 purposes of computing the time within which to give telephone notice and, notwithstanding the time  
8 limit herein specified, notice need only be given during normal business hours.

9 2. WRITTEN NOTIFICATION

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

13 b. TERMINAL ILLNESS – CONTRACTOR shall notify ADMINISTRATOR by written  
14 report hand delivered, faxed, sent via encrypted email, and/or postmarked and sent via U.S. Mail within  
15 forty-eight (48) hours of becoming aware of the death due to terminal illness of any person served  
16 pursuant to this Agreement.

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

21  
22 **XXI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

30  
31 **XXII. RECORDS MANAGEMENT AND MAINTENANCE**

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

35 B. CONTRACTOR shall implement and maintain administrative, technical and physical  
36 safeguards to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of  
37 PHI in violation of the HIPAA, federal and state regulations and/or CHPP. CONTRACTOR shall

1 mitigate to the extent practicable, the known harmful effect of any use or disclosure of PHI made in  
2 violation of federal or state regulations and/or COUNTY policies.

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

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

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

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

- 15 1. The medical records and billing records about individuals maintained by or for a covered  
16 health care provider;
- 17 2. The enrollment, payment, claims adjudication, and case or medical management record  
18 systems maintained by or for a health plan; or
- 19 3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.

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

- 23 1. Have documents readily available within forty-eight (48) hour notice of a scheduled audit  
24 or site visit.
- 25 2. Provide auditor or other authorized individuals access to documents via a computer  
26 terminal.
- 27 3. Provide auditor or other authorized individuals a hardcopy printout of documents, if  
28 requested.

29 H. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and  
30 security of PII and/or PHI. CONTRACTOR shall notify COUNTY immediately by telephone call plus  
31 email or fax upon the discovery of a Breach of unsecured PHI and/or PII.

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

35 J. CONTRACTOR shall retain all client and/or patient medical records for seven (7) years  
36 following discharge of the client and/or patient, with the exception of non-emancipated minors for  
37 //



1 whom records must be kept for at least one (1) year after such minors have reached the age of eighteen  
2 (18) years, or for seven (7) years after the last date of service, whichever is longer.

3  
4 **XXIII. RESEARCH AND PUBLICATION**

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

8  
9 **XXIV. REVENUE**

10 A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to  
11 clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or other  
12 third party health plans, are provided pursuant to this Agreement, their estates and responsible relatives,  
13 according to their ability to pay as determined by the State Department of Health Care Services’  
14 “Uniform Method of Determining Ability to Pay” (UMDAP) procedure or by any other payment  
15 procedure as approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title  
16 9 of the California Code of Regulations. Such fee shall not exceed the actual cost of services provided.  
17 No client shall be denied services because of an inability to pay.

18 B. THIRD-PARTY REVENUE – CONTRACTOR shall make every reasonable effort to obtain all  
19 available third-party reimbursement for which persons served pursuant to this Agreement may be  
20 eligible. Charges to insurance carriers shall be on the basis of CONTRACTOR’s usual and customary  
21 charges.

22 C. PROCEDURES – CONTRACTOR shall maintain internal financial controls which adequately  
23 ensure proper billing and collection procedures. CONTRACTOR’s procedures shall specifically  
24 provide for the identification of delinquent accounts and methods for pursuing such accounts.  
25 CONTRACTOR shall provide ADMINISTRATOR, monthly, a written report specifying the current  
26 status of fees which are billed, collected, transferred to a collection agency, or deemed by  
27 CONTRACTOR to be uncollectible.

28 D. OTHER REVENUES – CONTRACTOR shall charge for services, supplies, or facility use by  
29 persons other than individuals or groups eligible for services pursuant to this Agreement.

30  
31 **XXV. SEVERABILITY**

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

37 //

**XXVI. SPECIAL PROVISIONS**

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

- 1. Making cash payments to intended recipients of services through this Agreement.
- 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).
- 3. Fundraising.
- 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR’s staff, volunteers, or members of the Board of Directors or governing body.
- 5. Reimbursement of CONTRACTOR’s members of the Board of Directors or governing body for expenses or services.
- 6. Making personal loans to CONTRACTOR’s staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body, or its designee or authorized agent, or making salary advances or giving bonuses to CONTRACTOR’s staff.
- 7. Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at [www.opm.gov](http://www.opm.gov).
- 8. Severance pay for separating employees.
- 9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building codes and obtaining all necessary building permits for any associated construction.

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

- 1. Funding travel or training (excluding mileage or parking).
- 2. Making phone calls outside of the local area unless documented to be directly for the purpose of client care.
- 3. Payment for grant writing, consultants, certified public accounting, or legal services.
- 4. Purchase of artwork or other items that are for decorative purposes and do not directly contribute to the quality of services to be provided pursuant to this Agreement.

**XXVII. STATUS OF CONTRACTOR**

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

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

6  
7 **XXVIII. TERM**

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

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

16  
17 **XXIX. TERMINATION**

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

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

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

- 26 1. The loss by CONTRACTOR of legal capacity.
- 27 2. Cessation of services.
- 28 3. The delegation or assignment of CONTRACTOR’s services, operation or administration to  
29 another entity without the prior written consent of COUNTY.
- 30 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty  
31 required pursuant to this Agreement.
- 32 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of  
33 this Agreement.
- 34 6. The continued incapacity of any physician or licensed person to perform duties required  
35 pursuant to this Agreement.

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

5 D. CONTINGENT FUNDING

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

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

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

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

15 E. In the event this Agreement is suspended or terminated prior to the completion of the term as  
16 specified in the Referenced Contract Provisions of this Agreement, ADMINISTRATOR may, at its sole  
17 discretion, reduce the Maximum Obligation of this Agreement in an amount consistent with the reduced  
18 term of the Agreement.

19 F. In the event this Agreement is terminated by either party pursuant to Subparagraphs B., C. or D.  
20 above, CONTRACTOR shall do the following:

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

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

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

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

30 5. Assist ADMINISTRATOR in effecting the transfer of clients in a manner consistent with  
31 client's best interests.

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

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

36 8. To the extent services are terminated, cancel outstanding commitments covering the  
37 procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding

1 commitments which relate to personal services. With respect to these canceled commitments,  
2 CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims  
3 arising out of such cancellation of commitment which shall be subject to written approval of  
4 ADMINISTRATOR.

5 9. Provide written notice of termination of services to each client being served under this  
6 Agreement, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of  
7 termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendar  
8 day period.

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

11  
12 **XXX. THIRD PARTY BENEFICIARY**

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

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

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

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

3  
4 PATHWAYS COMMUNITY SERVICES, LLC

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

8  
9 TITLE: State Director \_\_\_\_\_

10  
11 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

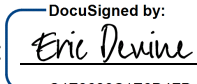
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17 COUNTY OF ORANGE

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21 HEALTH CARE AGENCY

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

27  
28  
29 BY:  \_\_\_\_\_ DATED: 3/7/2018  
30 DEPUTY

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

1 EXHIBIT A  
2 AGREEMENT FOR PROVISION OF  
3 BEHAVIORAL HEALTH OUTPATIENT SERVICES FOR CHILDREN AND YOUTH  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 PATHWAYS COMMUNITY SERVICES, LLC  
8 JULY 1, 2018 THROUGH JUNE 30, 2021  
9

10 **I. COMMON TERMS AND DEFINITIONS**

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

13 1. Active and Ongoing Case Load means documentation, by CONTRACTOR, for completion  
14 of entry and evaluation services provided to Clients into COUNTY’s IRIS Documentation also includes  
15 level, frequency, and duration of services received by Clients, and these services must be consistent with  
16 Clients’ level of impairments as well as treatment goals. In addition, services are to be individualized  
17 and solution-focused, using evidenced-based practices.

18 2. Administrative Support means individual(s) who is/are responsible for providing a broad  
19 range of office support to program and management staff that includes: answering and directing phone  
20 calls, writing correspondences, entering data in spreadsheets, preparing invoices for payment,  
21 maintaining tracking reports and files, and working on special projects, as assigned.

22 3. Admission means documentation, by CONTRACTOR, for completion of entry and  
23 evaluation services provided to Clients into IRIS.

24 4. Care Coordinator means an individual with a Bachelor’s degree in human services or  
25 related field who will be responsible for developing and leading the Family Team and guiding the  
26 evolution of a POC for a Client.

27 5. Client means any individual, referred or enrolled, for services under the Agreement who is  
28 living with mental, emotional, or behavioral disorders.

29 6. Crisis Intervention means a service, lasting less than twenty-four (24) hours that is provided  
30 to or on the behalf of a Client for a condition that requires more timely response than a regularly  
31 scheduled visit. Service activities may include, but are not limited to: assessment, individual therapy,  
32 collateral therapy, family therapy, case management, and psychiatric evaluation.

33 7. Data Collection System means software used for the collection, tracking, and reporting of  
34 outcomes data for Clients enrolled in the FSP programs.

35 8. DSH means the time, measured in hours and portions of hours, that a clinician spends  
36 providing services to Clients or significant others on behalf of Clients. DSH credit, both billable and  
37 //

1 non-billable minutes, is obtained by providing mental health, case management, medication support, and  
2 crisis intervention services to Clients open in IRIS.

3 9. Face-to-Face Contact means, as it pertains to a FSP, a direct encounter between  
4 CONTRACTOR’s staff and Client(s)/parent(s)/guardian(s). This does not include contact by phone,  
5 email, etc. For the purpose of completing an Encounter Document, Face-to-Face Contact means a direct  
6 encounter between staff and Client(s), regardless if another individual(s) is/are present or not.

7 10. Family Team means a group formed to meet the needs of a FSP eligible Client through  
8 whatever means possible, and this team includes a program staff, the eligible Client, the Client’s family  
9 members, and other support individual(s) the family agrees to include on the team.

10 11. FSP means a program model described in COUNTY’s MHSA plan that has been approved  
11 by the State. The MHSA plan describes how COUNTY will utilize MHSA funds to develop and  
12 implement treatment plans for mental health Clients through FSPs. A FSP is an evidence-based and  
13 strength-based model with the focus on the individual rather than the disease.

14 12. Group Home is a facility for housing youth and is licensed by Community Care Licensing  
15 under the provisions of CCR, Title 22, Division 6, et seq.

16 13. Head of Service means an individual ultimately responsible for overseeing the program and  
17 is required to be licensed as a mental health professional.

18 14. Individual Services and Support Funds (Flexible Funds) means funds used to provide  
19 Clients and/or their families with immediate assistance, as deemed necessary, for the treatment of their  
20 mental illness and improve their overall quality of life. Flexible Funds are generally categorized as  
21 housing, Client transportation, food, clothing, medical, and miscellaneous expenditures that are  
22 individualized and appropriate to support Clients’ mental health treatment activities.

23 15. Intake means the initial meeting between a Client and CONTRACTOR’s staff, and includes  
24 an evaluation of the Client to determine if the Client meets program criteria and is willing to seek  
25 services.

26 16. IRIS means the COUNTY’s database system that collects Clients’ information such as  
27 registration, scheduled appointments, laboratory information system, invoice and reporting capabilities,  
28 compliance with regulatory requirements, electronic medical records, and other relevant applications.

29 17. LCSW means a licensed individual, pursuant to the provisions of Chapter 14 of the  
30 California Business and Professions Code, who can provide clinical services to Clients. The license  
31 must be current and in force, and has not been suspended or revoked. Also, it is preferred that the  
32 individual has at least one (1) year of experience treating children and TAY.

33 18. LMFT means a licensed individual, pursuant to the provisions of Chapter 13 of the  
34 California Business and Professions Code, pursuant to the provisions of Chapter 14 of the California  
35 Business and Professions Code, who can provide clinical services to Clients. The license must be  
36 current and in force, and has not been suspended or revoked. Also, it is preferred that the individual has  
37 at least one (1) year of experience treating children and TAY.



1 19. LPCC means a licensed individual, pursuant to the provisions of Chapter 13 of the  
2 California Business and Professions Code, pursuant to the provisions of Chapter 16 of the California  
3 Business and Professions Code, who can provide clinical service to Clients. The license must be current  
4 and in force, and has not been suspended or revoked. Also, it is preferred that the individual has at least  
5 one (1) year of experience treating children and TAY.

6 20. LPT means a licensed individual, pursuant to the provisions of Chapter 10 of the California  
7 Business and Professions Code, who can provide clinical services to Clients. The license must be  
8 current and in force, and has not been suspended or revoked. Also, it is preferred that the individual has  
9 at least one (1) year of experience treating children and TAY.

10 21. Licensed Psychologist means a licensed individual, pursuant to the provisions of Chapter  
11 6.6 of the California Business and Professions Code, who can provide clinical services to Clients. The  
12 license must be current and in force, and has not been suspended or revoked. Also, it is preferred that  
13 the individual has at least one (1) year of experience treating children and TAY.

14 22. LVN means a licensed individual, pursuant to the provisions of Chapter 6.5 of the  
15 California Business and Professions Code, who can provide clinical services to Clients. The license  
16 must be current and in force, and has not been suspended or revoked. Also, it is preferred that the  
17 individual has at least one (1) year of experience treating children and TAY.

18 23. Medical Necessity means diagnosis, impairment, and intervention related criteria as defined  
19 in the COUNTY's MHP under Medical Necessity for Medi-Cal reimbursed Specialty Mental Health  
20 Services.

21 24. Mental Health Services means an individual or a group therapy and intervention being  
22 provided to Clients that is designed to reduce mental disability and restores or improves daily  
23 functioning. These Mental Health Services must be consistent with goals of learning and development,  
24 as well as independent living and enhanced self-sufficiency. In addition, these services cannot be  
25 provided as a component of adult residential services, crisis residential treatment services, crisis  
26 intervention, crisis stabilization, day rehabilitation, or day treatment intensive. Service activities may  
27 include, but are not limited to: assessment, plan development, rehabilitation, and collateral. Also,  
28 Mental Health Services may be either Face-to-Face Contact, or by telephone with Clients or significant  
29 support individuals, and services may be provided anywhere in the community.

30 a. Assessment means a service activity, which may include a clinical analysis of the  
31 history and current status of a Client's mental, emotional, behavioral disorder, and relevant cultural  
32 issues. The Assessment also needs to include history of services being provided, diagnosis, and use of  
33 testing procedures.

34 b. Collateral means significant support individual(s) in a Client's life and is/are used to  
35 define services provided to the Client with the intent of improving or maintaining the mental health  
36 status of the Client. The Client may or may not be present for this service activity.

37 //

1 c. Co-Occurring can refer dual diagnoses of different conditions occurring within the  
2 same individuals. In this case, it refers to clients who have substance use disorders as well as mental  
3 health disorders. See DD Integrated Treatment Model as well.

4 d. DD Integrated Treatment Model means a program that uses a stage-wise treatment  
5 model and is non-confrontational, follows behavioral principles, considers interactions between mental  
6 illness and substance abuse, and has gradual expectations of abstinence. Mental illness and substance  
7 abuse research has strongly indicated that a Client with co-occurring disorder needs treatment for both  
8 problems to recover fully and focusing on one does not ensure the other will go away. Dual diagnosis  
9 services integrate assistance for each condition by helping Clients recover from mental illness and  
10 substance abuse in one setting and at the same time.

11 e. ICC Service means assessment and plan development, and intensive case management  
12 services, to all Medi-Cal eligible children and youth, including foster youth, that qualify under the  
13 Pathways to Wellbeing (formerly Katie A.) Subclass. These services must address the child/youth's  
14 mental health need(s) through the coordination of care with providers not primarily associated with  
15 mental health services such as the Social Services Agency, Probation Department, and schools, and  
16 other community child service providers (although the client, collateral and mental health providers may  
17 also be present).

18 f. IHBS Service means intensive, individualized and strength-based interventions, with all  
19 Medi-Cal eligible children and youth, including those that qualify under the Pathways to Wellbeing  
20 (formerly Katie A.) Subclass to assist the child/youth and his/her significant support persons to develop  
21 skills to achieve the goals and objectives of the child/youth's treatment plan. IHBS only includes  
22 Individual Rehabilitation and Collateral services. Mental Health Services other than Individual  
23 Rehabilitation and Collateral will be claimed separately from IHBS.

24 g. Medication Support Services means services provided by licensed physicians,  
25 registered nurses, or other qualified medical staff, which include: prescribing, administering, dispensing  
26 and monitoring of psychiatric medications or biologicals that are necessary to alleviate symptoms of  
27 mental illness. These services also include evaluation and documentation of the clinical justification  
28 and effectiveness of medication, dosage, side effects, compliance, and response to medication. In  
29 addition, the licensed physicians, registered nurses, or other qualified medical staff must obtain  
30 informed consent from Clients prior to providing medication education and plan development related to  
31 the delivery of these services and/or assessment to Clients.

32 h. Rehabilitation Service means an activity which includes assistance to improving,  
33 maintaining, or restoring a Client's or group of Clients' functional skills, daily living skills, social and  
34 leisure skill, grooming and personal hygiene skills, meal preparation skills, support resources and/or  
35 medication education.

36 i. TCM means services that assist a Client to access needed medical, educational, social,  
37 prevocational, vocational, rehabilitative, or other community services. These service activities may

1 include, but are not limited to: communicating and coordinating services through referral; monitoring  
2 service delivery to ensure Clients' access to service and the service delivery system; and tracking of  
3 Clients' progress and plan development.

4 j. TBS means one-on-one behavioral interventions with a Client, which is designed to  
5 reduce or eliminate targeted behaviors as identified in the Client's treatment plan. Collateral services are  
6 also provided to parent(s)/guardian(s) as part of TBS. Clients must be Medi-Cal eligible and meet TBS  
7 class membership and service need requirements. Documentation in the medical record must support  
8 Medical Necessity for these intensive services. Cases in which Clients are receiving more than twenty  
9 (20) hours per week of TBS or those who are expected to receive more than four months (120 days) of  
10 TBS must be approved by ADMINISTRATOR. ADMINISTRATOR has to approve individuals that  
11 are delivering these intervention services to ensure they are qualified to deliver these services.

12 k. Therapy means a therapeutic intervention that focuses primarily on symptom reduction  
13 as a means to improve functional impairments. Therapy may be delivered to a Client or a group of  
14 Clients, which may include family therapy with Client being present.

15 l. MHSA means the State of California law that provides funding for expanded  
16 community mental health services. It is also known as "Proposition 63."

17 m. Mental Health Worker means an individual who has obtained a Bachelor's degree in a  
18 mental health field or has a high school diploma along with two (2) years of experience delivering  
19 services in a mental health field.

20 n. Mentoring Services means a service that provides support to Clients by building a  
21 structured and trusting relationship over a prolonged period of time between a Client and a mentor. The  
22 mentor is a peer or older individual who provides one-to-one contact and support in the following areas  
23 to assist Client(s)/parent(s)/guardian(s): consistent support, guidance, and coaching in life skills;  
24 concrete help and/or other relationship-building activities to the Client(s)/parent(s)/guardian(s); and  
25 linking the Client(s)/parent(s)/guardian(s) to other services within the COUNTY and contract operated  
26 programs.

27 25. NPI means the standard unique health identifier that was adopted by the Secretary of HHS  
28 under HIPAA of 1996 for health care providers. All HIPAA covered healthcare providers, individuals,  
29 and organizations must obtain an NPI for use to identify themselves in HIPAA standard transactions.  
30 The NPI is assigned for life.

31 26. NOA-A means a Medi-Cal requirement that informs the beneficiary that she/he is not  
32 entitled to any specialty mental health service. The COUNTY has expanded the requirement for an  
33 NOA-A to all beneficiaries requesting an assessment for services and found not to meet the Medical  
34 Necessity criteria for specialty mental health services.

35 27. NPP means a document that notifies Clients of uses and disclosures of PHI. The NPP may  
36 be made by, or on behalf of, the health plan or health care provider as set forth in the of 1996 HIPAA.

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1           28. Nurse Practitioner means a medical professional with an advanced degree in nursing that  
2 performs a variety of duties in care settings focused around a nursing model.

3           29. Outcomes Analyst/Data Mining Analyst means an individual who ensures that an FSP  
4 program maintains a focus on program outcomes. This individual will be responsible for reviewing  
5 outcome data, analyzing data, and developing strategies for gathering new data from Client's  
6 perspective to improve FSP's understanding of Client's needs and desires towards furthering their  
7 Recovery. This individual will also provide feedback to the program and work collaboratively with the  
8 employment specialist, education specialist, benefits specialist, and other staff in the program to  
9 strategize and improve outcomes in service delivery. In addition, this position will be responsible for  
10 attending all data and outcome related meetings and ensuring that the FSP is being proactive in all data  
11 collection requirements and changes at the local and state levels.

12           30. Outreach means linking potential Clients to appropriate mental health services within the  
13 community. Outreach activities will include educating the community about the services offered and  
14 requirements for participation in the programs. Such activities may result in the CONTRACTOR  
15 developing referral sources for Clients from various programs being offered within the community.

16           31. PBM Company means a company contracted by the COUNTY that manages the medication  
17 benefits for Clients that are qualified for medication benefits.

18           32. POC means a written plan, including by reference any Juvenile Court order(s), developed  
19 and signed by the Family Team that includes the following elements:

- 20           a. A statement of an overall goal or vision for the Client and Client's family.  
21           b. The strengths of the Client and Client's family.  
22           c. The needs, as defined by specific life areas that must be met to achieve the goal(s) of  
23 the Client and Client's family.  
24           d. Prevention and intervention Safety Plans.  
25           e. The type, frequency, and duration of intervention strategies.  
26           f. Financial responsibility for the components of the POC.  
27           g. Desired outcomes.

28           33. Pre-Licensed Psychologist means an individual who has a Ph.D. or Psy.D. in Clinical  
29 Psychology and is registered with the Board of Psychology as a Registered Psychologist or  
30 Psychological Assistant, while acquiring hours for licensing and providing services under a waiver in  
31 accordance with WIC section 575.2. The waiver may not exceed five (5) years.

32           34. Pre-Licensed Therapist means an individual who has a Master's Degree in social work or  
33 MFT, PCC and is registered with the BBS as an associate clinical social worker, PCC intern, or MFT  
34 intern, while acquiring hours for licensing. Registration is subject to regulations adopted by BBS.

35           35. Program Director means an individual who is responsible for all aspects of administration  
36 and clinical operations of the mental health program, including development and adherence to the  
37 annual budget. This individual will also be responsible for the following: hiring, development and

1 performance management of professional and support staff, and ensuring mental health treatment  
2 services are provided in concert with local and state rules and regulations.

3 36. PHI means individually identifiable health information usually transmitted through  
4 electronic media. PHI can be maintained in any medium as defined in the regulations, or for an entity  
5 such as a health plan, transmitted or maintained in any other medium. It is created or received by a  
6 covered entity and is related to the past, present, or future physical or mental health or condition of an  
7 individual, provision of health care to an individual, or the past, present, or future payment for health  
8 care provided to an individual.

9 37. Psychiatrist means an individual who meets the minimum professional and licensure  
10 requirements set forth in Title 9, CCR, Section 623, and, preferably, has at least one (1) year of  
11 experience treating children and TAY.

12 38. Psychology Student or Psychology Intern means an individual who is in school pursuing a  
13 Ph.D. or Psy.D. in Clinical Psychology, and may or may not meet the criteria for a DHCS Waiver in  
14 order to provide services in accordance with DHCS Information Letter No. 10-03. The waiver may not  
15 exceed (5) years.

16 39. QIC means a committee that meets quarterly to review one percent (1%) of all “high-risk”  
17 Medi-Cal Clients in order to monitor and evaluate the quality and appropriateness of services provided.  
18 At a minimum, the committee is comprised of one (1) ADMINISTRATOR, one (1) clinician, and one  
19 (1) physician who are not involved in the clinical care of the cases.

20 40. Referral means effectively linking Clients to other services within the community and  
21 documenting follow-up provided within five (5) business days to assure that Clients have made contact  
22 with the referred service(s).

23 41. RN means a licensed individual, pursuant to the provisions of Chapter 6 of the California  
24 Business and Professions Code, who can provide clinical services to Clients. The license must be  
25 current and in force, and has not been suspended or revoked. Also, it is preferred that the individual has  
26 at least one (1) year of experience treating children and TAY.

27 42. Student Intern means student(s) currently enrolled in an accredited graduate or  
28 undergraduate program and is/are accumulating supervised work experience hours as part of field work,  
29 internship, or practicum requirements. Acceptable programs include all programs that assist students in  
30 meeting the educational requirements to be a Licensed MFT, a Licensed CSW, a Licensed Clinical  
31 Psychologist, a Licensed PCC, or to obtain a Bachelor’s degree. Individuals with graduate degrees and  
32 have two (2) years of full-time experience in a mental health setting, either post-degree or as part of the  
33 program leading to the graduate degree, are not considered as students.

34 43. Supervisory Review means ongoing clinical case reviews in accordance with procedures  
35 developed by the COUNTY to determine the appropriateness of the diagnosis and treatment plan for  
36 Clients, as well as to monitor compliance to the minimum ADMINISTRATOR and Medi-Cal charting  
37 standards. Supervisory review is conducted by the program/clinic director or designee.

1 44. Token means the security device which allows an end-user to access the  
2 ADMINISTRATOR's computer based IRIS.

3 45. UMDAP means the method used for determining the annual Client liability for mental  
4 health services received from the COUNTY's mental health system and is set by the State of California.

5 46. Wellness Coordinator means an individual who specializes in assisting Clients with access  
6 to a myriad of health care needs, nutrition resources, and other community supports. This individual  
7 will be responsible for documenting the services required, as well as communicating the needs of  
8 Clients to the Family Team.

9 47. Wraparound Orange County means the wraparound program administered by COUNTY's  
10 SSA and is available to children and TAY who are returning from or being considered for placement in  
11 group homes.

12 B. CONTRACTOR AND ADMINISTRATOR may mutually agree, in writing, to modify the  
13 Common Terms and Condition 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 of this Exhibit A to the Agreement and the following budget, which is set forth for informational purposes only and may be adjusted by mutual agreement, in writing, by ADMINISTRATOR and CONTRACTOR.

| ADMINISTRATIVE COST             | <u>PERIOD</u><br><u>ONE</u> | <u>PERIOD</u><br><u>TWO</u> | <u>PERIOD</u><br><u>THREE</u> | <u>TOTAL</u>           |
|---------------------------------|-----------------------------|-----------------------------|-------------------------------|------------------------|
| Indirect                        | \$ 203,565                  | \$ 203,565                  | \$ 203,565                    | \$ 610,695             |
| <br><b>PROGRAM COST</b>         |                             |                             |                               |                        |
| Salaries                        | \$ 934,282                  | \$ 934,282                  | \$ 934,282                    | \$2,802,846            |
| Benefits                        | 215,710                     | 215,710                     | 215,710                       | 647,130                |
| Services and Supplies           | <u>207,115</u>              | <u>207,115</u>              | <u>207,115</u>                | <u>621,345</u>         |
| <b>SUBTOTAL PROGRAM COST</b>    | <b>\$1,357,107</b>          | <b>\$1,357,107</b>          | <b>\$1,357,107</b>            | <b>\$4,071,321</b>     |
| <br><b>TOTAL GROSS COST</b>     | <br><b>\$1,560,672</b>      | <br><b>\$1,560,672</b>      | <br><b>\$1,560,672</b>        | <br><b>\$4,682,016</b> |
| <br><b>REVENUE</b>              |                             |                             |                               |                        |
| Federal Medi-Cal                | \$ 780,336                  | \$ 780,336                  | \$ 780,336                    | \$2,341,008            |
| State Medi-Cal Match            | 702,302                     | 702,302                     | 702,302                       | 2,106,906              |
| County Discretionary            | <u>78,034</u>               | <u>78,034</u>               | <u>78,034</u>                 | <u>234,102</u>         |
| <b>TOTAL REVENUE</b>            | <b>\$1,560,672</b>          | <b>\$1,560,672</b>          | <b>\$1,560,672</b>            | <b>\$4,682,016</b>     |
| <b>TOTAL MAXIMUM OBLIGATION</b> | <b>\$1,560,672</b>          | <b>\$1,560,672</b>          | <b>\$1,560,672</b>            | <b>\$4,682,016</b>     |

B. CONTRACTOR agrees that the amount of the State match is dependent upon, and shall at no time be greater than, the amount of Federal Medi-Cal actually generated by CONTRACTOR, unless authorized by ADMINISTRATOR.

C. The total cost of services provided for in the Agreement are based upon projected revenue generation and shall be reimbursed by Federal Medi-Cal, State, and COUNTY revenues. CONTRACTOR agrees that if actual Federal Medi-Cal and State reimbursement, based upon the completed DHCS Cost Report for each Fiscal Year is less than budgeted, the Maximum Obligation shall be adjusted down by the amount of under generated Federal Medi-Cal and/or State revenue.

D. In the event CONTRACTOR collects fees and insurance, including Medicare, for services provided pursuant to the Agreement, CONTRACTOR may make written application to ADMINISTRATOR to retain such revenues; provided, however, the application must specify that the fees and insurance shall be utilized exclusively to provide mental health services. ADMINISTRATOR

1 may, at its sole discretion, approve any such retention of revenues. Approval by ADMINISTRATOR  
2 shall be in writing to CONTRACTOR and shall specify the amount of said revenues to be retained and  
3 the quantity of services to be provided by CONTRACTOR.

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

15 F. FINANCIAL RECORDS - CONTRACTOR shall prepare and maintain accurate and complete  
16 financial records of its cost and operating expenses. Such records will reflect the actual cost of the type  
17 of service for which payment is claimed. Any apportionment of or distribution of costs, including  
18 indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will  
19 be made in accordance with GAAP and Medicare regulations. The Client eligibility determination and  
20 fee charged to and collected from Clients, together with a record of all invoices rendered and revenues  
21 received from any source, on behalf of Clients treated pursuant to the Agreement, must be reflected in  
22 CONTRACTOR's financial records.

23 G. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
24 Budget Paragraph of this Exhibit A to the Agreement.

25  
26 **III. PAYMENTS**

27 A. COUNTY shall pay CONTRACTOR monthly, in arrears, for Period One, Period Two, and  
28 Period Three at the provisional amount of \$130,056 per month. All payments are interim payments only,  
29 and subject to final settlement in accordance with the Cost Report Paragraph of the Agreement for  
30 which CONTRACTOR shall be reimbursed for the actual cost of providing the services, which may  
31 include Indirect Administrative Costs, as identified in Subparagraph II.A. of this Exhibit A to the  
32 Agreement; provided, however, the total of such payments does not exceed the Maximum Obligation for  
33 each period as stated in the Referenced Contract Provisions of the Agreement and, provided further,  
34 CONTRACTOR's costs are reimbursable pursuant to COUNTY, state, and/or federal regulations.  
35 ADMINISTRATOR may, at its discretion, pay supplemental invoices for any month for which the  
36 provisional amount specified above has not been fully paid.

37 //



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

5 2. If, at any time, CONTRACTOR'S Expenditure and Revenue Reports indicate that the  
6 provisional amount payment exceeds the actual cost of providing services, ADMINISTRATOR may  
7 reduce COUNTY payments to CONTRACTOR by an amount not to exceed the difference between the  
8 year-to-date provisional amount payments to CONTRACTOR and the year-to-date actual cost incurred  
9 by CONTRACTOR.

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

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

20 C. All invoices to COUNTY shall be supported, at CONTRACTOR's facility, by source  
21 documentation including, but not limited to, ledgers, journals, time sheets, invoices, bank statements,  
22 cancelled checks, receipts, receiving records, and records of services provided.

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

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

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

30  
31 **IV. REPORTS**

32 A. CONTRACTOR shall maintain records and make statistical reports as required by  
33 ADMINISTRATOR and the DHCS on forms provided by either agency.

34 **B. FISCAL**

35 1. Expenditure and Revenue Report. CONTRACTOR shall submit monthly Expenditure and  
36 Revenue Reports to ADMINISTRATOR. These reports will be on a form provided by  
37 ADMINISTRATOR and will report year-to-date actual costs and revenues for CONTRACTOR's

1 program described in the Services Paragraph of this Exhibit A to the Agreement. Such reports will also  
2 include actual productivity as defined by ADMINISTRATOR.

3 2. Year-End Projections. In conjunction with the Expenditure and Revenue Report,  
4 CONTRACTOR shall provide monthly year-end projections that shall include year-to-date actual costs  
5 and revenues and anticipated year-end actual costs and revenues for CONTRACTOR's program  
6 described in the Services Paragraph of this Exhibit A to the Agreement.

7 3. The Expenditure and Revenue and Year-End Projection report shall be received by  
8 ADMINISTRATOR no later than the twentieth (20th) day following the end of the month being  
9 reported.

10 C. STAFFING – CONTRACTOR shall submit monthly Staffing Reports to ADMINISTRATOR.  
11 These reports shall be on a form provided by ADMINISTRATOR and shall, at a minimum, report  
12 overall FTEs of the positions stipulated in the Staffing Paragraph of this Exhibit A to the Agreement,  
13 and staff hours worked by position. The reports will be received by ADMINISTRATOR no later than  
14 twenty (20) calendar days following the end of the month being reported.

15 D. PROGRAMMATIC – Throughout the term of the Agreement, CONTRACTOR shall submit  
16 monthly programmatic reports to ADMINISTRATOR, which shall be received by ADMINISTRATOR  
17 no later than twenty (20) calendar days following the end of the month being reported. Programmatic  
18 reports shall be in a format(s) approved by ADMINISTRATOR and shall include a description of  
19 CONTRACTOR's progress in implementing the provisions of the Agreement, number of active cases,  
20 number of Client's admitted/discharged, details of outreach activities and their results, any pertinent  
21 facts or interim findings, staff changes, status of licenses and/or certifications, changes in population  
22 served and reasons for any such changes. CONTRACTOR shall be prepared to present and discuss their  
23 programmatic reports at their monthly scheduled meetings with ADMINISTRATOR and shall state  
24 whether or not it is progressing satisfactorily in achieving all the terms of the Agreement, and if not,  
25 shall specify what steps are being taken to achieve satisfactory progress.

26 E. ADDITIONAL REPORTS – Upon ADMINISTRATOR's request, CONTRACTOR shall make  
27 such additional reports as required by ADMINISTRATOR concerning CONTRACTOR's activities as  
28 they affect the services hereunder. ADMINISTRATOR shall be specific as to the nature of information  
29 requested and allow up to thirty (30) calendar days for CONTRACTOR to respond.

30 F. CONTRACTOR must request in writing any extensions to the due date of the monthly required  
31 report. If an extension is approved by ADMINISTRATOR, the total extension will not exceed more  
32 than five (5) calendar days.

33 G. CONTRACTOR agrees to enter psychometrics into COUNTY's EHR system as requested by  
34 ADMINISTRATOR. Said psychometrics are for the COUNTY's analytical uses only, and shall not be  
35 relied upon by CONTRACTOR to make clinical decisions. CONTRACTOR agrees to hold COUNTY  
36 harmless, and indemnify pursuant to Section XI, from any claims that arise from non-COUNTY use of  
37 said psychometrics.

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

3 **V. SERVICES**

4 **A. FACILITIES**

5 1. CONTRACTOR shall maintain a minimum of one (1) fully licensed and appropriate  
6 facilities for the provision of Behavioral Health Outpatient Services for Children and Youth which  
7 meet(s) the minimum requirements for Medi-Cal eligibility at the following location(s) or any other  
8 location(s) approved by ADMINISTRATOR, as specified below:

9  
10 West Region

11 12966 Euclid Street, Suites 200, 240, 280  
12 Garden Grove, CA 92840  
13

14 2. CONTRACTOR shall also make an effort to provide services in community-based facilities  
15 such as school sites when appropriate for more effective provision of services to the Client.

16 3. CONTRACTOR shall maintain regularly scheduled service hours, five (5) days a week  
17 throughout the year and maintain the capability to provide services during after-school hours on  
18 weekdays until 8:00 p.m., and on weekends, if necessary, in order to accommodate Clients unable to  
19 participate during regular business hours.

20 a. CONTRACTOR's administrative staff holiday schedule shall be consistent with  
21 COUNTY's holiday schedule unless otherwise approved, in advance and in writing, by  
22 ADMINISTRATOR.

23 b. CONTRACTOR shall provide twenty-four (24) hour crisis intervention services and  
24 provide a plan for twenty-four (24) hour psychiatric emergency services to minors which includes  
25 informing Clients and their families whom to contact for emergency services when the  
26 CONTRACTOR's facility is closed.

27 4. Upon COUNTY's certification of the provider's existing site, the CONTRACTOR shall be  
28 responsible for making any necessary changes to meet Medi-Cal site standards.

29 **B. BEHAVIORAL HEALTH OUTPATIENT SERVICES**

30 1. CONTRACTOR shall provide outpatient mental health services primarily to COUNTY  
31 Medi-Cal eligible Clients up to the age of twenty-one (21) years old.

32 2. CONTRACTOR shall conduct outreach to develop and maintain CONTRACTOR's own  
33 referral sources to ensure sufficient caseloads to meet contractual obligations.

34 3. CONTRACTOR shall provide medically necessary services to Medi-Cal eligible, special  
35 population Clients that may include, but not be limited to, preschool children, wards and dependents of  
36 the courts, dually diagnosed children, group home and foster children, and TAY. Services shall be  
37 provided at a level and frequency and duration that is consistent with each Client's level of dysfunction

1 and treatment goals, and consistent with individualized, solution-focused, evidenced-based practices.  
 2 The population to whom services are to be provided shall include, but may not be limited to:  
 3 a. Children who are acutely or chronically and seriously mentally ill, and for whom  
 4 hospitalization or other out-of-home placement is imminent without immediate intervention.  
 5 b. Children who are severely emotionally ill but not in an emergency situation who,  
 6 without appropriate treatment, will deteriorate and later require more intensive and costly treatment, and  
 7 possibly face removal from their homes.  
 8 c. Families whose children can be diverted from the regular mental health care system  
 9 through parent education and consultation services.  
 10 d. Children at risk for psychiatric hospitalization.  
 11 e. Children who are having difficulty in school, or are at risk of being placed in special  
 12 education.  
 13 f. Children who are in special education.  
 14 g. Minors of all ages who are in group home placement and who meet the COUNTY's  
 15 admission criteria under the Medi-Cal Outpatient Consolidation Plan.  
 16 h. Foster children of all ages and underserved Clients whose mental health problems are  
 17 causing them impaired functioning in different life domains.  
 18 i. Similar children who may be referred by a CalOPTIMA primary care provider.  
 19 4. In the situation where a Medi-Cal Client no longer meets Medi-Cal eligibility as verified by  
 20 the State Medi-Cal website or Medi-Cal Eligibility Data System (MEDS), CONTRACTOR, upon  
 21 reasonable discovery of this situation, shall discharge the Client from IRIS and refer the Client to  
 22 appropriate services in the community. If necessary, CONTRACTOR can request, in writing, approval  
 23 from ADMINISTRATOR to continue to provide services for a specified amount of time/sessions as  
 24 determined appropriate by ADMINISTRATOR while linking the Client to other appropriate services.  
 25 5. CONTRACTOR shall offer clinical intervention within five (5) business days of Client's  
 26 referral for services. A sufficient amount of treatment services shall be provided during evening hours  
 27 in order to accommodate Clients and their parents not able to participate during regular day-time hours.  
 28 Treatment services shall include, but may not be limited to:  
 29 a. Performing clinical and psycho-diagnostic assessment using DSM-5/ICD-10 CM  
 30 diagnosis, to include clinical consideration of each fundamental need: physical, psychological,  
 31 maturational, developmental, familial, educational, social, environmental and recreational. Additional  
 32 examinations, tests and evaluations may be conducted as clinically indicated. Findings of the  
 33 examinations and evaluations shall be documented in the Client record and signed by CONTRACTOR's  
 34 appropriate and responsible staff.  
 35 b. Obtaining valid consents from parents or courts for treatment.  
 36 c. Developing a written treatment plan for each Client that shall be based on the  
 37 assessment and diagnosis of that Client. The treatment plan shall delineate and justify all specific

1 treatment modes and therapeutic modalities to be used, and shall be developed in accordance with  
 2 ADMINISTRATOR standards, and utilize a full range of appropriate psychiatric and psychological  
 3 treatment modes and modalities. All treatment/service plans, coordination plans, and assessment  
 4 documents shall be developed within sixty (60) calendar days from the first planned Face-to-Face  
 5 Contact with an individual Client and/or significant support person(s). Such plans shall identify specific  
 6 treatment modes, milestones for the individual Client, obstacles/symptoms, and efforts of significant  
 7 support person(s) and program staff on behalf of the Client. All treatment/service plans shall include  
 8 observable and measurable Client milestones.

9 d. Use of individual therapy, brief intensive services, and short and long-term group  
 10 therapy modalities including psycho-educational, cognitive behavioral and child management therapy  
 11 techniques. CONTRACTOR shall develop and implement group therapy modalities for conditions that,  
 12 according to established research, would particularly show improvement when treated in this manner.

13 e. Collateral services, including support or educational services to a Client's adult  
 14 caregivers to help them in their parenting role. Services shall be provided to adult caregivers when it is  
 15 determined that it is in the best interest in treating the minor Client, and CONTRACTOR shall promote  
 16 active participation of Client's family. CONTRACTOR shall refer the adult caregiver(s) to an  
 17 appropriate adult mental health provider for medication and/or mental health services to address the  
 18 adult caregiver's DSM-5/ICD-10 CM mental disorder.

19 f. Providing other mental health services which may include, but not be limited to, family  
 20 therapy, crisis intervention, treatment planning, discharge planning, case management, linkage, and  
 21 consultation.

22 g. Medication support services, including a system of medication quality review, which  
 23 shall be provided by well trained, experienced psychiatrists knowledgeable in the use of medication to  
 24 improve the functioning and enhance the self-esteem of children. Medication used solely for psychiatric  
 25 purposes, and no other purposes, shall be prescribed for all Clients for whom it is clinically indicated.  
 26 CONTRACTOR shall ensure that the following are adhered to:

27 1) Established plan for maximizing use of physician time.  
 28 2) CONTRACTOR shall use COUNTY's formulary and prescribing practices.  
 29 3) Prescriptions may be filled at any pharmacy with which the COUNTY's PBM has  
 30 a contract; provided that CONTRACTOR shall be responsible for noting the Medi-Cal number on  
 31 prescriptions for Medi-Cal Clients.

32 4) CONTRACTOR shall provide COUNTY, in writing, with the name, license  
 33 number, and Drug Enforcement Agency number of any physician who will be prescribing medications,  
 34 prior to the physician's start date. Failure to so notify COUNTY may result in CONTRACTOR being  
 35 liable for the cost of the medication.

36 5) CONTRACTOR shall order such laboratory tests as are necessary and appropriate  
 37 to monitor psychotropic medications and shall be responsible for the cost of such tests.

1 h. In coordination and integration with COUNTY’s CYBH substance abuse counselors,  
2 providing or causing to be provided, all necessary substance abuse treatment services for Clients who  
3 are dually diagnosed with a concurrent substance abuse problem in addition to their mental illness, when  
4 appropriate.

5 i. Providing advocacy services on behalf of the Clients including intervening for the  
6 Clients with social services, probation and health departments, justice system, etc., as well as attending  
7 Individual Education Program meetings when requested by COUNTY.

8 j. Providing additional services, through a wide range of service options, which may  
9 include, but not be limited to, in-classroom consultation and visits to other facilities, including, but not  
10 limited to, Juvenile Hall, schools, Orangewood Children and Family Center, contractor clinics, and  
11 COUNTY operated clinics to provide treatment, assessment, and consultation.

12 6. CONTRACTOR shall identify Clients who may be eligible to receive TBS. If  
13 CONTRACTOR is certified to provide TBS, CONTRACTOR shall notify COUNTY of the starting and  
14 ending of each TBS case and CONTRACTOR is responsible for ensuring each and every TBS case  
15 meets medical necessity and TBS eligibility requirements. The DHCS Annual Compliance Review  
16 protocol section titled "Therapeutic Behavioral Services" (Section L) should be used to ensure  
17 appropriate provision of TBS. If CONTRACTOR is not certified to provide TBS, CONTRACTOR  
18 shall refer said Clients to COUNTY for referral to a TBS contractor agency. TBS services shall only be  
19 provided through agencies certified to provide TBS.

20 7. CONTRACTOR shall identify Clients who may be eligible to receive intensive mental  
21 health services as members of the Pathways to Wellbeing (Katie A.) Subclass. Contractor will use the  
22 “Medi-Cal Manual for Intensive Coordination (ICC), Intensive Home Based Services (IHBS), &  
23 Therapeutic Foster Care for Medi-Cal Beneficiaries” to determine eligibility, provide services, and  
24 guide documentation of these services. CONTRACTOR will coordinate with COUNTY on all aspects  
25 of mental health services provided to CLIENTS of the Pathways to Wellbeing (Katie A.) Subclass.

26 8. CONTRACTOR shall accept referrals from and make referrals to the various MHSA  
27 programs, as appropriate. CONTRACTOR shall coordinate referrals with other existing mental health  
28 services and wraparound services, to ensure that Clients and their families are given access to the most  
29 appropriate level and type of service. Other services may include Wraparound Orange County; MHSA  
30 FSP programs for children, TAY, or adults; and other COUNTY mental health services.

31 9. CONTRACTOR shall participate in any clinical case review and implement any  
32 recommendations made by COUNTY to improve Client care.

33 10. CONTRACTOR shall conduct Supervisory Review at sixty (60) calendar day and six (6)  
34 month intervals, in accordance with procedures developed by ADMINISTRATOR. CONTRACTOR  
35 shall conduct reviews of open cases, or previously opened with another provider based on the  
36 CONTRACTOR’S own established timelines, but have up to sixty (60) days to conduct such reviews.

37 //

1 CONTRACTOR shall ensure that all chart documentation complies with all federal, state, and local  
2 guidelines and standards.

3 C. CONTRACTOR RESPONSIBILITIES

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

7 2. CONTRACTOR shall ensure that all newly hired staff complete the COUNTY's New  
8 Provider Training, existing staff complete the COUNTY's Annual Provider Training, and staff  
9 responsible for input into IRIS complete the IRIS New User Training.

10 3. CONTRACTOR shall ensure that Annual Compliance Training is completed as set forth in  
11 Subparagraph C. of the Compliance Paragraph of the Agreement.

12 4. CONTRACTOR shall agree to adopt and comply with the written Quality Improvement  
13 Implementation Plan and procedures provided by ADMINISTRATOR which describe the requirements  
14 for quality improvement, supervisory review, and medication monitoring.

15 5. CONTRACTOR shall agree to adopt and comply with the documentation standards as per  
16 ADMINISTRATOR's Standards of Care practices; P&P's, New Provider Training, Annual Provider  
17 Training; DHCS State Contract; Title IX; the State EPSDT Documentation Manual; the State EPSDT  
18 TBS Documentation Manual; Medi-Cal Manual for Intensive Care Coordination (ICC), Intensive Home  
19 Based Services (IHBS) & Therapeutic Foster Care (TFC) for Medi-Cal Beneficiaries, and the EPSDT  
20 TBS Coordination of Care Best Practices Manual as provided by ADMINISTRATOR, which describe,  
21 but are not limited to, the requirements for Medi-Cal and ADMINISTRATOR charting standards; and  
22 any state regulatory requirements.

23 6. CONTRACTOR shall regularly review their charting, IRIS data input, and invoice systems  
24 to ensure compliance with COUNTY and State P&Ps and establish mechanisms to prevent inaccurate  
25 claim submissions.

26 7. CONTRACTOR shall maintain on file at the facility minutes and records of all quality  
27 improvement meetings and processes. Such records and minutes shall also be subject to regular review  
28 by ADMINISTRATOR in the manner specified in the Quality Improvement Implementation Plan and  
29 ADMINISTRATOR's P&Ps.

30 8. CONTRACTOR shall attend:

31 a. Case conferences, as requested by ADMINISTRATOR to address any aspect of clinical  
32 care.

33 b. Monthly meetings with ADMINISTRATOR to discuss contractual and other issues  
34 related to, but not limited to compliance with P&Ps, statistics and clinical services.

35 c. Clinical staff training for individuals by ADMINISTRATOR. Such training shall be  
36 conducted by CONTRACTOR and/or ADMINISTRATOR.

37 //

1 d. Quarterly QIC meetings.  
2 9. CONTRACTOR shall allow ADMINISTRATOR to attend, and if necessary conduct, QIC  
3 and medication monitoring meetings.

4 D. PERFORMANCE OUTCOMES

5 1. CONTRACTOR shall complete Performance Outcome Measures as required by State  
6 and/or COUNTY.

7 2. ADMINISTRATOR shall develop and provide CONTRACTOR with performance outcome  
8 measure guidelines for the purpose of evaluating the impact and/or contribution of CONTRACTOR's  
9 services on the well-being of COUNTY residents being served under the terms of the Agreement. The  
10 expected outcomes for the Monitoring Plan are to enable Clients to adaptively function at a higher and  
11 more appropriate level and to provide a quantifiable and repeatable measure to assess overall program  
12 effectiveness.

13 3. CONTRACTOR shall cooperate in data collection in order to develop baseline figures for  
14 future evaluation and report performance in terms of Client satisfaction, length of stay, and duration of  
15 services.

16 E. TOKENS – ADMINISTRATOR shall provide CONTRACTOR the necessary number of  
17 Tokens for appropriate individual staff to access IRIS at no cost to the CONTRACTOR.

18 1. CONTRACTOR recognizes Tokens are assigned to a specific individual staff member with  
19 a unique password. Tokens and passwords will not be shared with anyone.

20 2. CONTRACTOR shall maintain an inventory of the Tokens, by serial number and the staff  
21 member to whom each is assigned.

22 3. CONTRACTOR shall indicate in the monthly staffing report, the serial number of the  
23 Token for each staff member assigned a Token.

24 4. CONTRACTOR shall return to ADMINISTRATOR all Tokens under the following  
25 conditions:

- 26 a. Token of each staff member who no longer supports the Agreement;
- 27 b. Token of each staff member who no longer requires access to IRIS;
- 28 c. Token of each staff member who leaves employment of CONTRACTOR; or
- 29 d. Token is malfunctioning;
- 30 e. Termination of the Agreement.

31 5. ADMINISTRATOR shall issue Tokens for CONTRACTOR's staff members who require  
32 access to IRIS upon initial training or as a replacement for malfunctioning Tokens.

33 6. CONTRACTOR shall reimburse the COUNTY for Tokens lost, stolen, or damaged through  
34 acts of negligence.

35 7. CONTRACTOR shall input all IRIS data following COUNTY procedure and practice. All  
36 statistical data used to monitor CONTRACTOR shall be compiled using only COUNTY IRIS reports, if  
37 available, and if applicable.



1 F. CONTRACTOR shall obtain a NPI.

2 1. All HIPAA covered healthcare providers, individuals and organizations must obtain a NPI  
3 for use to identify themselves in HIPAA standard transactions.

4 2. CONTRACTOR, including each employee that provides services under the Agreement,  
5 will obtain a NPI upon commencement of the Agreement or prior to providing services under the  
6 Agreement. CONTRACTOR shall report to ADMINISTRATOR, on a form approved or supplied by  
7 ADMINISTRATOR, all NPI as soon as they are available.

8 G. CONTRACTOR shall provide the NPP for the COUNTY, as the MHP, at the time of the first  
9 service provided under the Agreement to individuals who are covered by Medi-Cal and have not  
10 previously received services at a COUNTY operated clinic. CONTRACTOR shall also provide, upon  
11 request, the NPP for the COUNTY, as the MHP, to any individual who received services under the  
12 Agreement.

13 H. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,  
14 with respect to any individual(s) who have been referred to CONTRACTOR by COUNTY under the  
15 terms of the Agreement. Further, CONTRACTOR agrees that the funds provided hereunder will not be  
16 used to promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian  
17 institution, or religious belief.

18 I. CONTRACTOR shall not engage in, or permit any of its employees or subcontractors, to  
19 conduct research activity on COUNTY Clients without obtaining prior written authorization from  
20 ADMINISTRATOR.

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

26 1. Designate the responsible position(s) in your organization for managing the funds allocated  
27 to the program;

28 2. Maximize the use of the allocated funds;

29 3. Ensure timely and accurate reporting of monthly expenditures;

30 4. Maintain appropriate staffing levels;

31 5. Request budget and/or staffing modifications to the Agreement;

32 6. Effectively communicate and monitor the program for its success;

33 7. Track and report expenditures electronically;

34 8. Maintain electronic and telephone communication between CONTRACTOR and  
35 ADMINISTRATOR; and

36 9. Act quickly to identify and solve problems.

37 //

1 K. CONTRACTOR shall document all adverse incidents affecting the physical and/or emotional  
 2 welfare of Clients, including but not limited to serious physical harm to self or others, serious  
 3 destruction of property, developments, etc., and which may raise liability issues with COUNTY.

4 CONTRACTOR shall notify COUNTY within twenty-four (24) hours of any such serious adverse  
 5 incident.

6 L. CONTRACTOR shall advise ADMINISTRATOR of any special incidents, conditions, or issues  
 7 that adversely affect the quality or accessibility of Client-related services provided by, or under contract  
 8 with, the COUNTY as identified in the ADMINISTRATOR’s P&Ps.

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

11  
 12 **VI. STAFFING**

13 A. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in FTEs  
 14 continuously throughout the term of the Agreement. One (1) FTE shall be equal to an average of forty  
 15 (40) hours of work per week to provide behavioral health outpatient services for children and youth:

| PROGRAM                            | <u>FTE</u>  |
|------------------------------------|-------------|
| Regional Director                  | 0.25        |
| Program Director                   | 1.00        |
| Office Manager                     | 1.00        |
| Office Assistant                   | 2.00        |
| Volunteer Coordinator              | 0.17        |
| Billing Administrator              | 0.11        |
| QI Administrator                   | 0.11        |
| Data Analyst                       | 0.25        |
| Psychiatrist-Medical Director      | 0.06        |
| Clinical Supervisor                | 1.00        |
| Psychologist                       | 0.15        |
| Pre-Licensed Therapist             | 2.00        |
| Pre-Licensed Therapist - Bilingual | 8.00        |
| Nurse Practitioner                 | 0.50        |
| TBS/IHBS Coach                     | <u>0.50</u> |
| <br>                               |             |
| TOTAL FTE                          | 17.10       |

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1 B. CONTRACTOR shall have as Head of Service a licensed mental health professional, in  
2 conformance to one of the following staff categories: Psychiatrist, Licensed Psychologist, LCSW,  
3 LPCC, Licensed MFT, RN, LVN, or LPT.

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

12 D. CONTRACTOR shall maintain personnel files for each staff person, including management and  
13 other administrative positions, both direct and indirect which shall include, but not be limited to, an  
14 application for employment, qualifications for the position, applicable licenses, waivers, registrations,  
15 documentation of bicultural/bilingual capabilities (if applicable), pay rate and evaluations justifying pay  
16 increases.

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

23 F. CONTRACTOR shall notify ADMINISTRATOR, in writing, no later than seventy-two (72)  
24 hours of any staffing vacancies or filling of vacant positions that occur during the term of the  
25 Agreement. CONTRACTOR's notification shall include at a minimum the following information:  
26 employee name(s), position title(s), date(s) of resignation, date(s) of hire, and a description of  
27 recruitment activity.

28 G. CONTRACTOR shall notify ADMINISTRATOR, in writing, no later than seven (7) business  
29 days, in advance, of any proposed staffing changes, including but not limited to promotions, temporary  
30 FTE changes, and temporary staffing assignments that occur during the term of the Agreement.

31 H. CONTRACTOR shall recruit, hire, train, and maintain staff that are persons in recovery, and/or  
32 family members of persons in recovery. These individuals shall not be currently receiving services  
33 directly from CONTRACTOR. Documentation may include, but not be limited to, the following:  
34 records attesting to efforts made in recruitment and hiring practices and identification of measures taken  
35 to enhance accessibility for potential staff in these categories.

36 I. CONTRACTOR shall provide training to service staff covering suicide assessment and crisis  
37 intervention or indications of suicidal risk (depending on scope of practice), developing safety plans,

1 maintaining healthy boundaries, reporting child abuse, dealing with difficult Clients, meeting facilitation  
2 and medication, confidentiality, identification of strengths, promoting life skills, and such other topics  
3 identified by the COUNTY. Formal training sessions may also be used to cover these topics but cannot  
4 substitute for weekly supervision hours.

5 J. CONTRACTOR shall maintain a current signature list including each supervisor and provider  
6 of direct services who signs chart documentation. The list shall include the printed/type staff name and  
7 title, followed by the legal signature with title as it appears on all chart documents. For licensed or  
8 registered clinical staff, the name must match the name on the license or registration.

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

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

18 M. WORKLOAD STANDARDS – CONTRACTOR understands and agrees that at any given time  
19 the standards referenced below are minimum standards, and shall make every effort to exceed these  
20 minimums.

21 1. One (1) DSH shall be equal to sixty (60) minutes of direct Client service.

22 2. Annually, for Period One, Period Two, and Period Three, CONTRACTOR shall provide a  
23 minimum of thirteen thousand two hundred forty-one (13,241) billable hours of service, with a  
24 minimum of six hundred (600) hours of medication support services, and twelve thousand six hundred  
25 forty-one (12,641) hours of other mental health, case management, and/or crisis intervention or TBS  
26 services as identified in the Services Paragraph of this Exhibit A to the Agreement.

27 3. CONTRACTOR shall provide a minimum of one hundred (100) billable DHSs per month  
28 per FTE or one thousand two hundred (1,200) billable DHSs per year per contracted FTE clinician of  
29 mental health services, unless otherwise approved by ADMINISTRATOR. For the Group Home/Foster  
30 Care Program, CONTRACTOR shall maintain an appropriate caseload that will facilitate the provision  
31 of the minimum direct service hours identified above.

32 4. CONTRACTOR shall maintain an active and on-going minimum caseload of at least two  
33 hundred fifty (250) unduplicated Clients, of which at least two hundred fifty (250) shall be Medi-Cal,  
34 throughout the term of the Agreement, unless otherwise approved by ADMINISTRATOR.

35 5. CONTRACTOR shall not refuse Client referrals if any of CONTRACTOR’s staff are  
36 below workload standards, as defined in Subparagraph VI.M. of this Exhibit A to the Agreement, unless  
37 otherwise approved by ADMINISTRATOR.

1 N. STUDENT INTERNS

2 1. CONTRACTOR may augment the above paid staff with volunteers or interns upon written  
3 approval of ADMINISTRATOR.

4 a. CONTRACTOR shall meet minimum requirements for supervision of each student  
5 intern as required by the State Licensing Board and/or school program descriptions or work contracts.

6 b. Student intern services shall not comprise more than twenty percent (20%) of total  
7 services provided.

8 2. CONTRACTOR shall provide a minimum of two (2) hours per week supervision to each  
9 student intern providing mental health services and one (1) hour of supervision for each ten (10) hours  
10 of treatment for student interns providing substance abuse services. CONTRACTOR shall provide  
11 supervision to volunteers as specified in the respective job descriptions or work contracts.

12 O. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the  
13 Staffing Paragraph of this Exhibit A to the Agreement.

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1 EXHIBIT B  
2 AGREEMENT FOR PROVISION OF  
3 BEHAVIORAL HEALTH OUTPATIENT SERVICES FOR CHILDREN AND YOUTH  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 PATHWAYS COMMUNITY SERVICES, LLC  
8 JULY 1, 2018 THROUGH JUNE 30, 2021  
9

10 **I. BUSINESS ASSOCIATE CONTRACT**

11 A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

32 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in  
33 Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the  
34 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the  
35 terms of this Business Associate Contract, as it exists now or be hereafter updated with notice to  
36 CONTRACTOR, and the applicable standards, implementation specifications, and requirements of the  
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1 Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and  
2 electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement.

3 B. DEFINITIONS

4 1. "Administrative Safeguards" are administrative actions, and P&Ps, to manage the selection,  
5 development, implementation, and maintenance of security measures to protect ePHI and to manage the  
6 conduct of CONTRACTOR's workforce in relation to the protection of that information.

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

9 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

34 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in  
35 45 CFR § 160.103.

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

1 7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in  
2 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance  
3 with 45 CFR § 164.502(g).

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

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

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

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

13 12. "Secretary" shall mean the Secretary of the Department of HHS or his or her designee.

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

19 14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of ePHI at  
20 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

21 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in  
22 45 CFR § 160.103.

23 16. "Technical safeguards" means the technology and the P&Ps for its use that protect  
24 electronic PHI and control access to it.

25 17. "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable,  
26 unreadable, or indecipherable to unauthorized individuals through the use of a technology or  
27 methodology specified by the Secretary of HHS in the guidance issued on the HHS Web site.

28 18. "Use" shall have the meaning given to such term under the HIPAA regulations in  
29 45 CFR § 160.103.

30 C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

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

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



1 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of  
2 45 CFR Part 164 with respect to ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR  
3 creates, receives, maintains, or transmits on behalf of COUNTY.

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

33 a. CONTRACTOR does not promptly enter into negotiations to amend this Business  
34 Associate Contract when requested by COUNTY pursuant to this Subparagraph C; or

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

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

4 D. SECURITY RULE

5 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish  
6 and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with  
7 45 CFR § 164.308, § 164.310, and § 164.312, with respect to electronic PHI COUNTY discloses to  
8 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.  
9 CONTRACTOR shall develop and maintain a written information privacy and security program that  
10 includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of  
11 CONTRACTOR's operations and the nature and scope of its activities.

12 2. CONTRACTOR shall implement reasonable and appropriate P&Ps to comply with the  
13 standards, implementation specifications and other requirements of 45 CFR Part 164, Subpart C, in  
14 compliance with 45 CFR § 164.316. CONTRACTOR will provide COUNTY with its current and  
15 updated policies upon request.

16 3. CONTRACTOR shall ensure the continuous security of all computerized data systems  
17 containing ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,  
18 maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents  
19 containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives,  
20 maintains, or transmits on behalf of COUNTY. These steps shall include, at a minimum:

21 a. Complying with all of the data system security precautions listed under Subparagraph  
22 E., below;

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

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

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

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

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

1 E. DATA SECURITY REQUIREMENTS

2 1. Personal Controls

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

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

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

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

28 2. Technical Security Controls

29 a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY  
30 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
31 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which  
32 is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the  
33 COUNTY.

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

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

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

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

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

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

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

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

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

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

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

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

25 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to  
26 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
27 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is  
28 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files  
29 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as  
30 website access, file transfer, and E-Mail.

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

### 35 3. Audit Controls

36 a. System Security Review. CONTRACTOR must ensure audit control mechanisms that  
37 record and examine system activity are in place. All systems processing and/or storing PHI COUNTY

1 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
2 COUNTY must have at least an annual system risk assessment/security review which provides  
3 assurance that administrative, physical, and technical controls are functioning effectively and providing  
4 adequate levels of protection. Reviews should include vulnerability scanning tools.

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

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

12 4. Business Continuity/Disaster Recovery Control

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

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

25 5. Paper Document Controls

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

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

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

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

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

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

16 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

26 2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY  
27 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written  
28 notification within twenty four (24) hours of the oral notification.

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

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

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

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



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

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

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

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

10 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in  
11 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the  
12 COUNTY.

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

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

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

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

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

34 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

35 1. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR  
36 as necessary to perform functions, activities, or services for, or on behalf of, COUNTY as specified in  
37 //

1 the Agreement, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done  
2 by COUNTY except for the specific Uses and Disclosures set forth below.

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

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

8 1) The Disclosure is required by law; or

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

14 c. CONTRACTOR may use or further disclose PHI COUNTY discloses to  
15 CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of  
16 CONTRACTOR.

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

19 3. CONTRACTOR may use and disclose PHI COUNTY discloses to CONTRACTOR  
20 consistent with the minimum necessary P&Ps of COUNTY.

21 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as  
22 required by law.

23 H. PROHIBITED USES AND DISCLOSURES

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

29 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI  
30 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on  
31 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by  
32 42 USC § 17935(d)(2).

33 I. OBLIGATIONS OF COUNTY

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

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

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

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

9 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

29 3. The obligations of this Business Associate Contract shall survive the termination of the  
30 Agreement.

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1 EXHIBIT C  
2 AGREEMENT FOR PROVISION OF  
3 BEHAVIORAL HEALTH OUTPATIENT SERVICES FOR CHILDREN AND YOUTH  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 PATHWAYS COMMUNITY SERVICES, LLC  
8 JULY 1, 2018 THROUGH JUNE 30, 2021  
9

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

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

13 A. DEFINITIONS

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

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

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

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

23 5. "IEA" shall mean the IEA currently in effect between the SSA and DHCS.

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

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

30 8. "PI" shall have the meaning given to such term in CCC § 1798.3(a).

31 9. "Required by law" means a mandate contained in law that compels an entity to make a use  
32 or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court  
33 orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental  
34 or tribal inspector general, or an administrative body authorized to require the production of  
35 information, and a civil or an authorized investigative demand. It also includes Medicare conditions of  
36 participation with respect to health care providers participating in the program, and statutes or  
37 //

1 regulations that require the production of information, including statutes or regulations that require such  
2 information if payment is sought under a government program providing public benefits.

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

6 B. TERMS OF AGREEMENT

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

11 2. Responsibilities of CONTRACTOR

12 CONTRACTOR agrees:

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

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

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

28 1) Complying with all of the data system security precautions listed in Subparagraph  
29 E. of the Business Associate Contract, Exhibit B to the Agreement; and

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

34 3) If the data obtained by CONTRACTOR from COUNTY includes PII,  
35 CONTRACTOR shall also comply with the substantive privacy and security requirements in the  
36 CMPPA Agreement between the SSA and the CHHS and in the Agreement between the SSA and  
37 DHCS, known as the IEA. The specific sections of the IEA with substantive privacy and security

1 requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic  
2 Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local  
3 Agencies Exchanging Electronic Information with the SSA. CONTRACTOR also agrees to ensure that  
4 any of CONTRACTOR's agents or subcontractors, to whom CONTRACTOR provides DHCS PII agree  
5 to the same requirements for privacy and security safeguards for confidential data that apply to  
6 CONTRACTOR with respect to such information.

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

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

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

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

25 h. Breaches and Security Incidents. During the term of the Agreement, CONTRACTOR  
26 agrees to implement reasonable systems for the discovery of any Breach of unsecured DHCS PI and PII  
27 or security incident. CONTRACTOR agrees to give notification of any Breach of unsecured DHCS PI  
28 and PII or security incident in accordance with Subparagraph F, of the Business Associate Contract,  
29 Exhibit B to the Agreement.

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

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