

AMENDMENT NO.1
TO
CONTRACT NO. MA-042-18010435
FOR
TOBACCO USE PREVENTION SERVICES

This Amendment (“Amendment No. 1”) to Contract No. MA-042-18010435 for Tobacco Use Prevention Services is made and entered into on July 1, 2020 (“Effective Date”) between America On Track (“Contractor”), with a place of business at 600 W. Santa Ana Blvd., Suite 710 Santa Ana, CA 92701, and the County of Orange, a political subdivision of the State of California (“County”), through its Health Care Agency, with a place of business at 405 W. 5th St., Ste. 600, Santa Ana, CA 92701. Contractor and County may sometimes be referred to individually as “Party” or collectively as “Parties”.

RECITALS

WHEREAS, the Parties executed Contract No. MA-042-18010435 for Tobacco Use Prevention Services, effective July 1, 2017 through June 30, 2020, in an amount not to exceed \$900,000 (“Contract”); and

WHEREAS, the Parties now desire to enter into this Amendment No. 1 to renew the Contract for one year, in an amount not to exceed \$230,000 for the renewal period, for County to continue receiving and Contractor to continue providing the services set forth in the Contract, to amend specific terms and conditions in the Contract, and to amend Exhibit A of the Contract.

NOW THEREFORE, Contractor and County agree to amend the Contract as follows:

//
//
//
//
//
//
//
//
//
//
//
//
//
//
//
//
//
//
//
//
//

<u>PARAGRAPH</u>	<u>PAGE</u>
Title Page.....	2
Contents.....	3
Referenced Contract Provisions	3
I. Acronyms	6
II. Alteration of Terms	11
III. Assignment of Debts.....	11
IV. Compliance	11
V. Confidentiality.....	16
VI. <u>Conflict of Interest</u>	16
VI . <u>VII</u> . Cost Report	17
VII . <u>VIII</u> . Delegation, Assignment and Subcontracts.....	19
IX. <u>Dispute Resolution</u>	21
VIII . <u>X</u> . Employee Eligibility Verification	22
IX . <u>XI</u> . Equipment	22
X . <u>XII</u> . Facilities, Payments and Services.....	23
XI . <u>XIII</u> . Indemnification and Insurance	23
XII . <u>XIV</u> . Inspections and Audits.....	32
XIII . <u>XV</u> . Licenses and Laws	33
XIV . <u>XVI</u> . Literature, Advertisements, and Social Media.....	34
XV . <u>XVII</u> . Maximum Obligation.....	35
XVI . <u>XVIII</u> . Minimum Wage Laws.....	35
XVII . <u>XIX</u> . Nondiscrimination.....	38
XVIII . <u>XX</u> . Notices.....	38
XXI. <u>Notification of Death</u>	39
XIX . <u>XXII</u> . Notification of Public Events and Meetings	39
XX . <u>XXIII</u> . Records Management and Maintenance	40
XXI . <u>XXIV</u> . Research and Publications	40
XXII . <u>XXV</u> . Severability.....	41
XXIII . <u>XXVI</u> . Special Provisions	41
XXIV . <u>XXVII</u> . Status of Contractor	43
XXV . <u>XXVIII</u> . Term	43
XXVI . <u>XXIX</u> . Termination	44
XXVII . <u>XXX</u> . Third Party Beneficiary.....	47
XXVIII . <u>XXXI</u> . Waiver of Default or Breach	47
Signature Page.....	48

EXHIBIT A-1

PAGE

I. Service Area Identification	12
II. Budget	12
III. Definitions	13
IV. Payments	13
V. Reports.....	14
VI. Services	16
VII. Staffing	19

//
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //
 //

REFERENCED CONTRACT PROVISIONS

~~Term: July 1, 2017 through June 30, 2020~~

~~Period One means the period from July 1, 2017 through June 30, 2018~~

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

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

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

Maximum Obligation: ~~\$900,000~~ \$1,130,000

~~Period One Maximum Obligation: \$ 300,000~~

~~Period Two Maximum Obligation: 300,000~~

~~Period Three Maximum Obligation: 300,000~~

Period Four Maximum Obligation: \$ 230,000

~~TOTAL MAXIMUM OBLIGATION: \$ 900,000~~

TOTAL MAXIMUM OBLIGATION: \$1,130,000

Basis for Reimbursement: Actual Cost

Payment Method: Payment in Arrears

CONTRACTOR DUNS Number: 12-511-8484

CONTRACTOR TAX ID Number: 33-0724044

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: America On Track
600 W. Santa Ana Blvd., Suite 710
Santa Ana, CA 92701
Attn: Claire Braeburn, Executive Director
OnTrack@AmericaOnTrack.org

II. ACRONYMS

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

A. AA	Alcoholics Anonymous
B. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
C. ABC	Allied Behavioral Care
D. ACH	Acute Care Hospital
E. ADAS	Alcohol and Drug Abuse Services
F. ADEPT	Alcohol and Drug Education and Prevention Team
G. ADL	Activities of Daily Living
H. ADP	Alcohol and Drug Program
I. AES	Advanced Encryption Standard
J. AFLP	Adolescent Family Life Program
K. AIDS	Acquired Immune Deficiency Syndrome
L. AIM	Access for Infants and Mothers
M. AMHS	Adult Mental Health Services
N. AOD	Alcohol and Other Drugs
O. ARRA	American Recovery and Reinvestment Act of 2009
P. ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
Q. ASI	Addiction Severity Index
R. ASIST	Applied Suicide Intervention Skills Training
S. ASO	Administrative Services Organization
T. ASRS	Alcohol and Drug Programs Reporting System
U. BBS	Board of Behavioral Sciences
V. BCP	Business Continuity Plan
W. BH	Base Hospital
X. BHS	Behavioral Health Services
Y. CalOMS	California Outcomes Measurement System
Z. CalOMS Pv	California Outcome Measurement Service for Prevention
AA. CalWORKs	California Work Opportunity and Responsibility for Kids
AB. CAP	Corrective Action Plan
AC. CAT	Centralized Assessment Team
AD. CCC	California Civil Code
AE. CCLD	(California) Community Care Licensing Division
AF. CCR	California Code of Regulations
AG. CDCR	California Department of Corrections and Rehabilitation
AH. CDSS	California Department of Social Services

AI. CERC	Children's Emergency Receiving Center
AJ. CESI	Client Evaluation of Self at Intake
AK. CEST	Client Evaluation of Self and Treatment
AL. CFDA	Catalog of Federal Domestic Assistance
AM. CFR	Code of Federal Regulations
AN. CHDP	Child Health and Disability Prevention
AO. CHHS	California Health and Human Services Agency
AP. CHPP	COUNTY HIPAA Policies and Procedures
AQ. CHS	Correctional Health Services
AR. CIPA	California Information Practices Act
AS. CMPPA	Computer Matching and Privacy Protection Act
AT. COI	Certificate of Insurance
AU. CPA	Certified Public Accountant
AV. CSAP	Center for Substance Abuse Prevention
AW. CSI	Client and Services Information
AX. CSW	Clinical Social Worker
AY. CYBHS	Children and Youth Behavioral Health Services
AZ. DATAR	Drug Abuse Treatment Access Report
BA. DCR	Data Collection and Reporting
BB. DD	Dually Diagnosed
BC. DEA	Drug Enforcement Agency
BD. DHCS	California Department of Health Care Services
BE. D/MC	Drug/Medi-Cal
BF. DMV	California Department of Motor Vehicles
BG. DoD	US Department of Defense
BH. DPFS	Drug Program Fiscal Systems
BI. DRC	Probation's Day Reporting Center
BJ. DRP	Disaster Recovery Plan
BK. DRS	Designated Record Set
BL. DSM	Diagnostic and Statistical Manual of Mental Disorders
BM. DSM-IV	Diagnostic and Statistical Manual of Mental Disorders. 4 th Edition
BN. DSM-V	Diagnostic and Statistical Manual of Mental Disorders. 5 th Edition
BO. EBP	Evidence-Based Practice
BP. EDN	Electronic Disease Notification System
BQ. EEOC	Equal Employment Opportunity Commission
BR. EHR	Electronic Health Records
BS. ePHI	Electronic Protected Health Information

BT. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
BU. ERC	Emergency Receiving Center
BV. FBO	Faith-Based Organization
BW. FFS	Fee For service
BX. FIPS	Federal Information Processing Standards
BY. FQHC	Federally Qualified Health Center
BZ. FSP	Full Service Partnership
CA. FTE	Full Time Equivalent
CB. GAAP	Generally Accepted Accounting Principles
CC. HAB	Federal HIV/AIDS Bureau
CD. HCA	County of Orange Health Care Agency
CE. HHS	Federal Health and Human Services Agency
CF. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
CG. HITECH	Health Information Technology for Economic and Clinical Health Act, Public Law 111-005
CH. HIV	Human Immunodeficiency Virus
CI. HRSA	Federal Health Resources and Services Administration
CJ. HSC	California Health and Safety Code
CK. IBNR	Incurred But Not Reported
CL. ID	Identification
CM. IEA	Information Exchange Agreement
CN. IMD	Institute for Mental Disease
CO. IOM	Institute of Medicine
CP. IRIS	Integrated Records and Information System
CQ. ISO	Insurance Services Office
CR. ITC	Indigent Trauma Care
CS. LCSW	Licensed Clinical Social Worker
CT. LGBTQI	Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex
CU. LPS	Lanterman/Petris/Short (Act)
CV. LPT	Licensed Psychiatric Technician
CW. MAT	Medication Assisted Treatment
CX. MEDS	Medi-Cal Eligibility Determination System
CY. MFT	Marriage and Family Therapist
CZ. MH	Mental Health
DA. MHIS	Mental Health Inpatient Services
DB. MIHS	Medical and Institutional Health Services

DC. MHP	Mental Health Plan
DD. MHRC	Mental Health Rehabilitation Centers
DE. MHS	Mental Health Specialist
DF. MHSA	Mental Health Services Act
DG. MORS	Milestones of Recovery Scale
DH. MS	Mandatory Supervision
DI. MSN	Medical Safety Net
DJ. MTP	Master Treatment Plan
DK. NA	Narcotics Anonymous
DL. NIATx	Network Improvement of Addiction Treatment
DM. NIH	National Institutes of Health
DN. NIST	National Institute of Standards and Technology
DO. NOA	Notice of Action
DP. NP	Nurse Practitioner
DQ. NPDB	National Provider Data Bank
DR. NPI	National Provider Identifier
DS. NPP	Notice of Privacy Practices
DT. OCEMS	Orange County Emergency Medical Services
DU. OCJS	Orange County Jail System
DV. OC-MEDS	Orange County Medical Emergency Data System
DW. OCPD	Orange County Probation Department
DX. OCR	Federal Office for Civil Rights
DY. OCSD	Orange County Sheriff's Department
DZ. OIG	Federal Office of Inspector General
EA. OMB	Federal Office of Management and Budget
EB. OPM	Federal Office of Personnel Management
EC. ORR	Federal Office of Refugee Resettlement
ED. P&P	Policy and Procedure
EE. PA DSS	Payment Application Data Security Standard
EF. PAF	Partnership Assessment Form
EG. PAR	Prior Authorization Request
EH. PBM	Pharmaceutical Benefits Management
EI. PC	California Penal Code
EJ. PCI DSS	Payment Card Industry Data Security Standard
EK. PCP	Primary Care Provider
EL. PCS	Post-Release Community Supervision
EM. PHI	Protected Health Information

EN. PI	Personal Information
EO. PII	Personally Identifiable Information
EP. PRA	California Public Records Act
EQ. PSAI/ACT	Perinatal Substance Abuse Services Initiative/Assessment and Coordination Team
ER. PSC	Professional Services Contract
ES. PTRC	Paramedic Trauma Receiving Center
ET. QI	Quality Improvement
EU. QIC	Quality Improvement Committee
EV. RHAP	Refugee Health Assessment Program
EW. RHEIS	Refugee Health Electronic Information System
EX. RN	Registered Nurse
EY. RSA	Remote Site Access
EZ. SAPTBG	Substance Abuse Prevention and Treatment Block Grant
FA. SD/MC	Short-Doyle Medi-Cal
FB. SIR	Self-Insured Retention
FC. SMA	Statewide Maximum Allowable (rate)
FD. SNF	Skilled Nursing Facility
FE. SR	Supervised Release
FG. SRP	Supervised Release Participant
FH. SSA	County of Orange Social Services Agency
FI. SSI	Supplemental Security Income
FJ. STP	Special Treatment Program
FK. SUD	Substance Use Disorder
FL. TA	Technical Assistance
FM. TAR	Treatment Authorization Request
FN. TAY	Transitional Age Youth
FO. TB	Tuberculosis
FP. TBS	Therapeutic Behavioral Services
FQ. TRC	Therapeutic Residential Center
FR. TTY	Teletypewriter
FS. TUPP	Tobacco Use Prevention Program
FT. UMDAP	Uniform Method of Determining Ability to Pay
FU. UOS	Units of Service
FV. USC	United States Code
FW. VOLAGs	Volunteer Agencies
FX. W&IC	California Welfare and Institutions Code

FY. WIC

Women, Infants and Children

III. ALTERATION OF TERMS

A. This Agreement, together with Exhibit A attached hereto and incorporated herein, fully expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject matter of this Agreement.

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

IIII. ASSIGNMENT OF DEBTS

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

IVIV. COMPLIANCE

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

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

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

- a. Designation of a Compliance Officer and/or compliance staff.
- b. Written standards, policies and/or procedures.
- c. Compliance related training and/or education program and proof of completion.
- d. Communication methods for reporting concerns to the Compliance Officer.

- e. Methodology for conducting internal monitoring and auditing.
- f. Methodology for detecting and correcting offenses.
- g. Methodology/Procedure for enforcing disciplinary standards.

~~3. If CONTRACTOR does not provide proof of its own Compliance program to ADMINISTRATOR, CONTRACTOR shall 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.~~

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

4. If CONTRACTOR elects to have its own Compliance Program, Code of Conduct and any Compliance related policies and procedures 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, and the California Medi-Cal Suspended and Ineligible Provider List and/or any other list or system as identified by the ADMINISTRATOR.~~

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

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

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

- a. is currently excluded, suspended, debarred or otherwise ineligible to participate in federal and state health care programs; or
- b. has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the federal and state health care programs after a period of exclusion, suspension, debarment, or ineligibility.

//

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

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

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

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

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

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

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

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

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

//

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

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

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

~~1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered Individuals relative to this Agreement.~~

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

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

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

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

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

E. MEDICAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

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

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

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

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

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

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

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

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

VV. CONFIDENTIALITY

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

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

VI. CONFLICT OF INTEREST

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

//

//

~~VII~~**VI. COST REPORT**

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

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

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

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

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

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

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

~~B. The individual and/or consolidated Cost Report prepared for each period shall be the final financial and statistical report submitted by CONTRACTOR to COUNTY, and shall serve as the basis for final settlement to CONTRACTOR for that period.~~

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

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

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

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

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

"I HEREBY CERTIFY that I have executed the accompanying Cost Report and supporting documentation prepared by _____ for the cost report period beginning _____ and ending _____ and that, to the best of my knowledge and belief, costs reimbursed through this Agreement are reasonable and allowable and directly or indirectly related to the services provided and that this Cost Report is a true, correct, and complete statement from the books and records of

(provider name) in accordance with applicable instructions, except as noted. I also hereby certify that I have the authority to execute the accompanying Cost Report.

Signed _____
Name _____
Title _____
Date _____ “

VIII~~VII~~. DELEGATION ASSIGNMENT, AND SUBCONTRACTS

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

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

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

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

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

3. If CONTRACTOR is a governmental organization, any change to another structure, including a change in more than fifty percent (50%) of the composition of its governing body (i.e. Board of Supervisors, City Council, School Board) within a two (2) month period of time, shall be deemed an

assignment for purposes of this paragraph. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

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

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

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

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

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

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

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

//

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

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

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

IX. DISPUTE RESOLUTION

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

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

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

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

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

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

XVIII. EMPLOYEE ELIGIBILITY VERIFICATION

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

XIX. EQUIPMENT

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

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

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

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

//

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

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

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

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

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

XIIX. FACILITIES, PAYMENTS AND SERVICES

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

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

XI. INDEMNIFICATION AND INSURANCE

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

~~concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.~~

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

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

~~— D. All SIRs and deductibles shall be clearly stated on the COI. If no SIRs or deductibles apply, indicate this on the COI with a zero (0) by the appropriate line of coverage. Any SIR or deductible in an amount in excess of \$50,000 (\$5,000 for automobile liability) shall specifically be approved by the CEO/Office of Risk Management upon review of CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is approved, CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this Agreement, agrees to all of the following:~~

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

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

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

~~— E. If CONTRACTOR fails to maintain insurance as required in this Paragraph XI (INDEMNIFICATION AND INSURANCE) for the full term of this Agreement, such failure shall~~

#

~~constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to terminate this Agreement.~~

~~— F. QUALIFIED INSURER~~

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

~~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
	\$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Sexual Misconduct Liability	\$1,000,000 per occurrence

~~— 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.**~~

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

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

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

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

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

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

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

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

~~_____ Q. SUBMISSION OF INSURANCE DOCUMENTS~~

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

~~_____ a. Prior to the start date of this Agreement.~~

~~_____ b. No later than the expiration date for each policy.~~

~~_____ c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding changes to any of the insurance types as set forth in Subparagraph G. above.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. QUALIFIED INSURER

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

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
	\$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned, and hired vehicles (4 passengers or less)	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims -made
Technology Errors & Omissions	\$1,000,000 per claims -made
	\$1,000,000 aggregate
Professional Liability Insurance	\$1,000,000 per claims -made
	\$1,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence
Employee Dishonesty (Client Coverage)	\$1,000,000 per occurrence
	(Limit commensurate with exposure)

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, agents and

//

employees as Additional Insureds, or provide blanket coverage, which will state AS REQUIRED BY WRITTEN AGREEMENT.

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

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

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

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

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

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

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

M. The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate of Insurance. *[Only include this provision when Employee Dishonesty Insurance is required]*. ***This is primarily used if an "advance" payment is given to the provider. This does not apply to provisional payments which are then reconciled to actual costs in the following month***

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

O. If CONTRACTOR's Professional Liability, Technology Errors & Omissions and/or Network Security & Privacy Liability are "Claims -Made" policies, CONTRACTOR shall agree to maintain coverage for two (2) years following the completion of the Agreement.

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

Q. If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, contract may be terminated.

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

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

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

U. SUBMISSION OF INSURANCE DOCUMENTS

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

a. Prior to the start date of this Agreement.

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

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

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

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

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

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

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

//

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

XIV~~XII~~. INSPECTIONS AND AUDITS

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

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

C. AUDIT RESPONSE

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

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

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

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

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

XIII. LICENSES AND LAWS

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

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

B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

2. Failure of CONTRACTOR to timely submit the data and/or certifications required by Subparagraphs 1.a., 1.b., 1.c., or 1.d. above, or to comply with all federal and state employee reporting requirements for child support enforcement, or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement;

//

and failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute grounds for termination of this Agreement.

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

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

1. ARRA of 2009.
2. Code of Federal Regulations, Title 42, Public Health.
3. Public Law 107-110, No Child Left Behind Act of 2001.
4. 42 CFR, Public Health 20 USC §7183, Pro-Children Act of 1994.
5. PC §11164 et seq., Child Abuse and Neglect Reporting Act.

XVIXIV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA

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

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

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

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

//

//

~~XVII~~**XV. MAXIMUM OBLIGATION**

~~The Total Maximum Obligation of COUNTY for services provided in accordance with this Agreement, and the separate Maximum Obligations for each period under this Agreement, are as specified in the Referenced Contract Provisions of this Agreement.~~

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

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

~~XVIII~~**XVI. MINIMUM WAGE LAWS**

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

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

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

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

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

C. Notwithstanding the minimum wage requirements provided for in this clause, CONTRACTOR, where applicable, shall comply with the prevailing wage and related requirements, as provided for in

accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (§§1770, et seq.), as it now exists or may hereafter be amended.

XVII. NONDISCRIMINATION

A. EMPLOYMENT

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

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

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

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

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

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

//

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

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

~~C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all clients through a written statement that CONTRACTOR’s and/or subcontractor’s clients may file all complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and ADMINISTRATOR or the U.S. Department of Health and Human Services’ OCR.~~

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

1. Whenever possible, problems shall be resolved informally and at the point of service. CONTRACTOR shall establish an internal informal problem resolution process for clients not able to resolve such problems at the point of service. Clients may initiate a grievance or complaint directly with CONTRACTOR either orally or in writing.
2. Within the time limits procedurally imposed, the complainant shall be notified in writing as to the findings regarding the alleged complaint and, if not satisfied with the decision, may file an appeal.

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

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

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

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

XVIII. NOTICES

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

1. When written and deposited in the United States mail, first class postage prepaid and addressed as specified in the Referenced Contract Provisions of this Agreement or as otherwise directed by ADMINISTRATOR;
2. When faxed, transmission confirmed;
3. When sent by Email; or
4. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or any other expedited delivery service.

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

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

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

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

XXI. NOTIFICATION OF DEATH

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

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

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

2. WRITTEN NOTIFICATION

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

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

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

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

XIX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS

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

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

~~XXIII~~. RECORDS MANAGEMENT AND MAINTENANCE

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

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

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

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

D. CONTRACTOR shall retain all financial records for a minimum of ten (10) years from the commencement of the Agreement, unless a longer period is required due to legal proceedings such as litigations and/or settlement of claims.

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

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

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

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

~~XXIV~~. RESEARCH AND PUBLICATION

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

~~XXV~~. SEVERABILITY

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

XXVIXXIII. 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.~~
- ~~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.~~
- ~~10. Purchasing or improving land, including constructing or permanently improving any building or facility, except for tenant improvements.~~
- ~~11. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal funds (matching).~~
- ~~12. Contracting or subcontracting with any entity other than an individual or nonprofit entity.~~
- ~~13. Producing any information that promotes responsible use, if the use is unlawful, of drugs or alcohol.~~
- ~~14. Promoting the legalization of any drug or other substance included in Schedule 1 of the Controlled Substance Act (21 USC 812).~~
- ~~15. Distributing or aiding in the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug.~~
- ~~16. Assisting, promoting, or deterring union organizing.~~
- ~~17. Providing inpatient hospital services or purchasing major medical equipment.~~

~~— 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.~~

~~5. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's clients.~~

~~C. Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the affected party. Such acts shall include, but not be limited to, acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight, embargo, public related utility, or governmental statutes or regulations imposed after the fact.~~

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, interns, consultants, subcontractors, and 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.

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

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

XXVIII~~XXV~~. TERM

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

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

XXVI. TERMINATION

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

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

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

~~—— 1. The loss by CONTRACTOR of legal capacity.~~

~~—— 2. Cessation of services.~~

~~—— 3. The delegation or assignment of CONTRACTOR's services, operation or administration to another entity without the prior written consent of COUNTY.~~

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

~~— D. CONTINGENT FUNDING~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

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

8. To the extent services are terminated, cancel outstanding commitments covering the procurement of materials, supplies, equipment, and miscellaneous items, as well as outstanding commitments which relate to personal services. With respect to these canceled commitments, CONTRACTOR shall submit a written plan for settlement of all outstanding liabilities and all claims

//

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

AMERICA ON TRACK

BY: _____ DATED: _____

TITLE: _____

COUNTY OF ORANGE

BY: _____ DATED: _____

HEALTH CARE AGENCY

APPROVED AS TO FORM

OFFICE OF THE COUNTY COUNSEL

ORANGE COUNTY, CALIFORNIA

BY: _____ DATED: _____

DEPUTY

If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. 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.

EXHIBIT A
TO AGREEMENT FOR PROVISION OF
TOBACCO USE PREVENTION SERVICES
BETWEEN
COUNTY OF ORANGE
AND
AMERICA ON TRACK
JULY 1, 2017 THROUGH JUNE 30, 2020

I. SERVICE AREA IDENTIFICATION

~~— CONTRACTOR agrees to provide Tobacco Use Prevention Services in Los Alamitos Unified School District, Orange Unified School District and Placentia Yorba Linda Unified School District, focusing on one (1) high school per district, for a total of three (3) high schools.~~

II. BUDGET

~~— A. The following budget is per period and set forth for informational purposes only and may be adjusted by mutual agreement, in writing, by ADMINISTRATOR and CONTRACTOR.~~

	<u>PERIOD</u> <u>ONE</u>	<u>PERIOD</u> <u>TWO</u>	<u>PERIOD</u> <u>THREE</u>	<u>TOTAL</u>
ADMINISTRATIVE				
— Salaries	\$ 14,850	\$ 14,850	\$ 14,850	\$ 44,550
— Benefits	4,185	4,185	4,185	12,555
— Services and Supplies	<u>6,838</u>	<u>6,838</u>	<u>6,838</u>	<u>20,514</u>
SUBTOTAL ADMINISTRATIVE COST	\$ 25,873	\$ 25,873	\$ 25,873	\$ 77,619
PROGRAM				
— Salaries	\$131,750	\$131,750	\$131,750	\$395,250
— Benefits	37,487	37,487	37,487	112,461
— Services and Supplies	69,890	69,890	69,890	209,670
— Subcontractors	<u>35,000</u>	<u>35,000</u>	<u>35,000</u>	<u>105,000</u>
SUBTOTAL PROGRAM COST	\$274,127	\$274,127	\$274,127	\$822,381
TOTAL COST	\$300,000	\$300,000	\$300,000	\$900,000
REVENUE				
— TSR	<u>\$300,000</u>	<u>\$300,000</u>	<u>\$300,000</u>	<u>\$900,000</u>
TOTAL REVENUE	\$300,000	\$300,000	\$300,000	\$900,000
MAXIMUM OBLIGATION	\$300,000	\$300,000	\$300,000	\$900,000

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

~~— C. CONTRACTOR shall be responsible for the development and implementation of an evaluation subcontract using criteria developed by HCA/TUPP. Ten (10%) percent of the total requested funding must be applied to evaluation services. The evaluator chosen shall be a subcontracted professional evaluator or a staff member experienced in comprehensive evaluation methodology, or a combination of both.~~

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

III. DEFINITIONS

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

~~— 1. Action Plan means a plan that clearly describes how performance outcomes will be achieved. The Action Plan includes, at minimum, performance outcomes, strategies, activities and evaluation; it documents strategies and action steps that will be used to create change in any identified issues area.~~

~~— 2. TUPP Provider Manual means the manual developed by ADMINISTRATOR to describe the specific services to be performed by CONTRACTOR. The TUPP Provider Manual provides guidance, goals, objectives, terminology, and evaluation components.~~

~~— B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Terms and Definitions Paragraph to this Exhibit A to the Agreement.~~

IV. PAYMENTS

~~— A. COUNTY shall pay CONTRACTOR monthly, in arrears, for the actual costs of providing services described hereunder, less revenues which are actually received by CONTRACTOR. All payments are interim payments only and are subject to Final Settlement in accordance with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for the actual cost of~~

~~providing the services; hereunder provided, however, the total of such payments does not exceed COUNTY's Total Maximum Obligation and, provided further, CONTRACTOR's costs are reimbursable pursuant to County, State and/or Federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental billings for any month in which the interim payment amount specified above has not been fully paid.~~

~~1. In support of the monthly billing, CONTRACTOR shall submit an Expenditure and Revenue Report, which shall have other information including but not limited to, staffing, units of service, and any other information requested by ADMINISTRATOR, as specified in the Reports Paragraph of this Exhibit A to the Agreement. ADMINISTRATOR shall use the Expenditure and Revenue Report to determine payment to CONTRACTOR as specified in Subparagraphs A.2. and A.3., below.~~

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

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

~~B. CONTRACTOR's invoices shall be on a form approved or supplied by COUNTY and include such information as is required by ADMINISTRATOR. Invoices are due the twentieth (20th) calendar day of each month and payments to CONTRACTOR should be released by COUNTY no later than twenty one (21) calendar days after receipt of the correctly completed invoice.~~

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

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

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

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

~~#~~

~~#~~

V. REPORTS

A. FISCAL

~~1. Expenditure Revenue Report CONTRACTOR shall submit Expenditure and Revenue Reports to ADMINISTRATOR in support of the monthly invoice. These reports shall be on a form approved or provided by ADMINISTRATOR, and shall report actual costs and revenue for each of the CONTRACTOR's program(s) or cost center(s) described in the Services Paragraph of this Exhibit A to the Agreement. These reports are due to ADMINISTRATOR by the twentieth (20th) calendar day of each month following the end of the month being reported.~~

~~2. Year End Projection Reports CONTRACTOR shall provide monthly, year end projections that shall include year to date actual costs and revenues, and anticipated year end actual costs and revenues for CONTRACTOR's program described in the Services Paragraph of this Exhibit A to the Agreement, and shall be on a form approved or provided by ADMINISTRATOR. Year End Projection Reports will be submitted in conjunction with the monthly Expenditure and Revenue Reports and are due to ADMINISTRATOR by the twentieth (20th) calendar day of each month following the end of the month being reported.~~

~~3. Staffing Report CONTRACTOR shall submit Staffing Reports to ADMINISTRATOR in support of the monthly invoice. These reports shall be on a form approved or provided by ADMINISTRATOR and shall, at a minimum include actual hours worked by each staff member. These reports are due to ADMINISTRATOR by twentieth (20th) calendar day of each month following the end of the month being reported and are to be submitted in conjunction with the monthly Expenditure and Revenue and Year End Projection Reports.~~

B. PROGRAMMATIC

~~1. CUMULATIVE PROGRAMMATIC REPORTS CONTRACTOR shall submit quarterly cumulative programmatic reports to ADMINISTRATOR. These reports shall be on a form provided by ADMINISTRATOR. The final programmatic report shall include a process evaluation that shall contain, but not be limited to, an analysis of the effectiveness of strategies used in conducting outreach and tobacco use prevention activities, the overall effectiveness of the program, and changes/recommendations for future projects. The due dates for these reports are identified in the TUPP Provider Manual.~~

~~2. INTERVENTION REPORT FORM (IRF) CONTRACTOR shall submit on a format provided by ADMINISTRATOR, a monthly intervention report form documenting progress toward Tobacco Use Prevention project performance outcomes. These reports are due to ADMINISTRATOR by the tenth (10th) calendar day of the month following the report month.~~

~~3. MONTHLY NARRATIVE REPORTS CONTRACTOR shall submit a monthly narrative report documenting progress toward project performance outcomes set forth in the TUPP Provider Manual, project successes, and plans for the following month. These reports are due to ADMINISTRATOR by the fifth (5th) calendar day of each month following the end of the month being~~

~~reported. CONTRACTOR shall use the monthly Tobacco Settlement Revenue narrative format provided by ADMINISTRATOR. The first monthly narrative report is due to ADMINISTRATOR by August 5, 2017.~~

~~C. ADDITIONAL REPORTS — CONTRACTOR shall make additional reports as required by ADMINISTRATOR concerning CONTRACTOR's activities as they affect the services hereunder. These reports shall be on forms approved or provided by ADMINISTRATOR. ADMINISTRATOR shall be specific as to the nature of the information requested and, when possible, shall allow thirty (30) calendar days for CONTRACTOR to respond.~~

~~D. CONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports and services provided pursuant to this Agreement. CONTRACTOR shall review the reasonableness and accuracy of information prior to making any recommendation, or incorporating such data into any report required hereunder.~~

~~E. All reports, drawings, specifications, data, and other incidental work or materials furnished by CONTRACTOR hereunder shall become and remain the property of COUNTY, and may be used by COUNTY as it may require, without any additional cost to COUNTY.~~

~~F. CONTRACTOR shall not use reports produced as the result of providing Tobacco Use Prevention Services or data obtained for the purpose of producing such reports without the express written consent of ADMINISTRATOR. All reports shall indicate that the County of Orange Health Care Agency Tobacco Use Prevention Program funds CONTRACTOR's services.~~

~~G. EVALUATION TOOLS — ADMINISTRATOR shall provide all evaluation tools to CONTRACTOR and train CONTRACTOR staff on protocols for implementation of evaluation tools.~~

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

VI. SERVICES

~~A. CONTRACTOR shall provide Tobacco Use Prevention Services in accordance with this Exhibit A to the Agreement, and in support of the COUNTY's Tobacco Use Prevention plan and goals as defined in the TUPP Provider Manual provided by ADMINISTRATOR. ADMINISTRATOR reserves the right to revise and update the TUPP Provider Manual as needed. ADMINISTRATOR shall notify CONTRACTOR of changes to the TUPP Provider Manual within three (3) business days of said changes.~~

~~B. PERFORMANCE OBJECTIVES — PERIOD ONE~~

~~CONTRACTOR shall meet the following performance objectives and complete the detailed activities specified in the TUPP Provider Manual for prevention services by June 30, 2018:~~

~~1. Conduct a tobacco and e cigarette educational presentation to the entire 9th grade student body (with the exception of absent students) at each of the three selected high schools within OUSD,~~

~~#~~

~~PYLUSD, and LOSALUSD for approximately one thousand five hundred (1,500) 9th grade students educated.~~

~~2. Engage parents of 9th grade students at each of the three (3) selected high schools within OUSD, PYLUSD, and LOSALUSD with at least two (2) activities, including, but not limited to, conducting a town hall meeting/event for parents of 9th grade students from each of the three (3) target schools, as well as utilizing each school's existing parent events, social marketing, and/or digital media outlets.~~

~~3. Facilitate the formation of a youth task force at each of the three selected high schools within OUSD, PYLUSD, and LOSALUSD, consisting of a minimum of ten (10) students and one (1) teacher/advisor per school, to participate in youth engagement activities, including at least two (2) campus wide events at each of the three (3) selected high schools, for a total of six (6) campus wide events.~~

~~4. Collaborate with local law enforcement to assess illegal tobacco and e cigarette sales to youth by conducting "attempted buys" with all Orange County commercial tobacco and e cigarette retailers within a two (2) mile radius of the three (3) selected high schools within OUSD, PYLUSD, and LOSALUSD. An initial list of commercial tobacco and e cigarette retailers shall be obtained from the Board of Equalization.~~

~~5. Collaborate with local law enforcement and youth task force members to conduct merchant education with all Orange County commercial tobacco and e cigarette retailers within a two (2) mile radius of each of the three (3) selected high schools within OUSD, PYLUSD, and LOSALUSD to assist them in complying with the new Tobacco 21 Law governing the sale of tobacco and e cigarettes.~~

~~6. Increase by ten percent (10%) the number of individuals (at least eight hundred (800) total) demonstrating knowledge of the violation for providing tobacco and e cigarettes to anyone under the age of twenty one (21), through a social sources awareness campaign to raise community awareness of social sources of tobacco and e cigarettes within the three (3) high school catchment areas within OUSD, PYLUSD, and LOSALUSD.~~

~~7. Adapt and implement a "5 Star Merchant" recognition program that rewards responsible tobacco and e cigarette retailers in the three (3) high school catchment areas within OUSD, PYLUSD, and LOSALUSD. A "5 Star Merchant" means compliance with all laws governing the sale of tobacco and e cigarettes.~~

~~8. Develop and produce a minimum of five (5) educational, promotional and/or incentive materials focusing on lowering youth prevalence of tobacco and e cigarette use among youth within the three (3) high school catchment areas within OUSD, PYLUSD, and LOSALUSD. Before the promotional and/or incentive items are sent to production they shall go through formative research and shall also be focus group tested.~~

~~#~~

~~#~~

~~9. Develop and produce three different print/digital advertisements and display them at a minimum of seven (7) mass reach media outlets to raise community awareness of social sources and the "5 Star Merchant" program within our target high school catchment areas.~~

~~C. PERFORMANCE OBJECTIVES PERIODS TWO AND THREE~~

~~1. The performance objectives and complete actions plans for Period Two and Period Three shall be developed in coordination with TUPP staff and will be based upon Period One process outcomes to ensure program's quality and effectiveness. Performance objectives and complete action plans for Period Two and Period Three shall be included in the TUPP Manual.~~

~~D. MEETINGS~~

~~1. CONTRACTOR and ADMINISTRATOR shall meet at least once a month to discuss program and strategic issues. ADMINISTRATOR and CONTRACTOR shall agree to the meeting dates in writing.~~

~~2. CONTRACTOR shall invite ADMINISTRATOR to all regional meetings scheduled by CONTRACTOR.~~

~~3. CONTRACTOR's Executive Director, Project Coordinator, or designee who has authority to make decisions, shall participate in meetings related to the provision of services pursuant to this Agreement, when requested by ADMINISTRATOR.~~

~~E. PATENTS AND COPYRIGHT MATERIALS~~

~~1. Unless otherwise expressly provided in this Agreement, CONTRACTOR shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Agreement.~~

~~2. CONTRACTOR agrees that any and all "works of authorship," as defined in 17 United States Code Annotated (U.S.C.A.), Section 102(a) which are created, produced, developed, or delivered as part of this Agreement, whether or not published, which can be considered "works made for hire" per 17 U.S.C.A., Section 101, shall be considered works made for hire. CONTRACTOR also agrees that the copyright to any and all such works made for hire under this Agreement, whether published or unpublished, belongs to COUNTY from the moment of creation as that term is defined in 17 U.S.C.A., Section 101. CONTRACTOR agrees that COUNTY shall have a royalty free, non-exclusive right to use, reproduce, and disseminate all such material.~~

~~3. CONTRACTOR agrees and does hereby grant to COUNTY for all purposes a royalty free, non-exclusive and irrevocable license throughout the world to reproduce, to prepare derivative works, to distribute copies, to perform, to display or to otherwise use, duplicate, or dispose of any work, data or material in any manner, which is created, produced, developed, or delivered as part of this Agreement, but which is not considered a "work made for hire." CONTRACTOR agrees that the COUNTY shall have authority to grant such license to others.~~

~~#~~
~~#~~

~~4. CONTRACTOR agrees that if CONTRACTOR enters into any agreements with other parties to perform the work required under this Agreement, that CONTRACTOR shall require that each agreement include clauses granting COUNTY:~~

~~a. A copyright interest in any works created, produced, developed, or delivered as "works made for hire," and~~

~~b. A royalty free, non-exclusive, and irrevocable license throughout the world to reproduce, to prepare derivative works, to distribute copies, to perform, to display or to otherwise use, duplicate, or dispose of "works made for hire" or, any work, data or material "not made for hire" under this Agreement.~~

~~F. CONTRACTOR shall collaborate with tobacco use prevention providers funded by COUNTY to promote the activities and services described within this Agreement.~~

~~G. ADMINISTRATOR may conduct periodic reviews of CONTRACTOR to evaluate performance in meeting the terms of this Agreement. ADMINISTRATOR will notify CONTRACTOR in writing of any issue(s) or concern(s) related to the provision of services pursuant to this Agreement, and may request a plan of corrective action. Corrective action plans may address, but are not limited to performance outcomes, preventative strategies, and/or action plans. CONTRACTOR shall submit a written plan of corrective action for approval within two (2) weeks of request by ADMINISTRATOR. CONTRACTOR may request in advance and in writing, an extension to the due date for a corrective action plan. Approval of the request shall be at the sole discretion of ADMINISTRATOR.~~

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

~~I. SOCIAL MEDIA — If a project related to social media is to be used, CONTRACTOR shall develop necessary policies and procedures and keep them on file.~~

~~J. CONTRACTOR agrees to comply with the terms and requirements as directed in the Cessation/Prevention Provider Manual.~~

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

VII. STAFFING

~~A. CONTRACTOR shall provide services pursuant to this Agreement by recruiting, hiring, and maintaining administrative and program staff who have the requisite qualifications and experience to provide tobacco use prevention services under this Agreement.~~

~~#~~
~~#~~

~~— B. CONTRACTOR shall perform a pre-employment screening of any person who will provide services pursuant to this Agreement. All staff, including volunteers and interns, shall meet the following requirements prior to providing any service pursuant to this Agreement:~~

~~— 1. No person, within the preceding two (2) years, shall have been convicted of any criminal offense other than a traffic violation.~~

~~— 2. No person, within the preceding two (2) years, shall have been found guilty of any crime related to the use of drugs or alcohol.~~

~~— 3. No person, at any time, shall have been found guilty of any crime involving moral turpitude by a court of law.~~

~~— 4. No person shall be on parole or probation.~~

~~— C. All individuals working directly with youth must submit fingerprints and pass a background check, prior to providing services pursuant to this Agreement. CONTRACTOR shall submit to ADMINISTRATOR copies of the results for each individual that has successfully passed the background check. CONTRACTOR shall keep copies for its records.~~

~~— D. All individuals working directly with youth shall obtain an Activity Supervisor Clearance Certificate issued by the Commission on Teacher Credentialing, prior to assuming a paid or volunteer position to supervise, direct, or coach a pupil activity program sponsored by or affiliated with a school district. The application to obtain a certificate is available at the Commission on Teacher Credentialing website at <http://www.etc.ca.gov/credentials/apply.html>. CONTRACTOR shall submit to ADMINISTRATOR copies of the certificates for each individual who has successfully obtained an Activity Supervisor Clearance Certificate. Contractor shall keep copies for its records.~~

~~— E. Separate from the Code of Conduct specified in the Compliance Paragraph of this Agreement, CONTRACTOR shall establish a written Code of Conduct for employees, subcontractors, volunteers, interns, and the Board of Directors which shall include, but not be limited to, standards related to the use of drugs and/or alcohol; staff participant relationships; prohibition of sexual conduct with participants; and conflict of interest. Prior to providing any services pursuant to this Agreement, all employees, subcontractors, volunteers, interns, and the Board of Directors shall agree in writing to maintain the standards set forth in the Code of Conduct.~~

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

~~— G. CONTRACTOR shall, at a minimum, provide the following paid staffing expressed in Full-Time Equivalent (FTEs), which shall be equal to an average of forty (40) hours of work per week:~~

#

POSITION	FTEs
ADMINISTRATIVE	
— President	0.15
SUBTOTAL ADMINISTRATIVE FTEs	0.15
PROGRAM	
— Project Director	0.25
— Program Coordinator	1.00
— Health Educator	1.50
SUBTOTAL PROGRAM FTEs	2.75
SUBCONTRACTOR	
— Program Evaluation	0.26
— Media Design	0.05
SUBTOTAL SUBCONTRACTOR FTEs	0.31
TOTAL FTEs	3.21

~~— H. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy two (72) hours, of any staffing changes; including vacancies associated with termination, resignation, and/or notice of resignation; leaves of absence; promotions; temporary FTE changes; and internal or external temporary staffing assignment requests that occur during the term of the Agreement. CONTRACTOR's notification to ADMINISTRATOR shall provide appropriate information regarding the staffing change, such as but not limited to employee name(s), position title(s), date(s) of resignation/separation, date(s) of hire/promotion, FTE adjustments, leave timeframes/estimates, internships, jobs duties, and description of recruitment activity for replacement staff.~~

~~— I. CONTRACTOR may augment the above paid staff with volunteers and/or part-time student interns; provided, however, CONTRACTOR shall provide supervision as specified in the respective job descriptions or work contracts.~~

~~— J. CONTRACTOR shall maintain personnel files for each paid or unpaid staff member, both administrative and programmatic, which shall include as appropriate and applicable, but not be limited to, an application for employment, qualifications for the positions, job description, documentation of bicultural/bilingual capabilities, pay rate, evaluations justifying pay increases, and copies of pertinent training certifications pursuant to the terms of this Agreement.~~

~~— K. EVALUATION — CONTRACTOR shall collaborate with ADMINISTRATOR for the development of evaluation design, evaluation tools, and to create databases.~~

EXHIBIT A-1
TO CONTRACT FOR PROVISION OF
TOBACCO CESSATION SERVICES BETWEEN COUNTY OF ORANGE AND
AMERICA ON TRACK
JULY 1, 2020 THROUGH JUNE 30, 2021

I. Service Area Identification

CONTRACTOR agrees to provide Tobacco Use Prevention Services in Orange Unified School District and Placentia-Yorba Linda Unified School District, focusing on four (4) high schools.

II. Budget

A. The following budget is per period and set forth for informational purposes only and may be adjusted by mutual agreement, in writing, by ADMINISTRATOR and CONTRACTOR.

	<u>FY 2020-2021</u>
<u>ADMINISTRATIVE</u>	
<u>Salaries</u>	<u>\$ 12,000</u>
<u>Benefits</u>	<u>3,381</u>
<u>Services and Supplies</u>	<u>3,165</u>
<u>SUBTOTAL ADMINISTRATIVE COST</u>	<u>\$ 18,546</u>
 <u>PROGRAM</u>	
<u>Salaries</u>	<u>\$104,994</u>
<u>Benefits</u>	<u>27,358</u>
<u>Services and Supplies</u>	<u>56,102</u>
<u>Subcontractors</u>	<u>23,000</u>
<u>SUBTOTAL PROGRAM COST</u>	<u>\$211,454</u>
 <u>TOTAL COST</u>	 <u>\$230,000</u>
<u>REVENUE</u>	
<u>TSR</u>	<u>\$230,000</u>
<u>TOTAL REVENUE</u>	<u>\$230,000</u>
 <u>MAXIMUM OBLIGATION</u>	 <u>\$230,000</u>

B. BUDGET/STAFFING MODIFICATIONS – CONTRACTOR may request to shift funds between budgeted line items within a program, for the purpose of meeting specific program needs or for

providing continuity of care to its participants, by utilizing a Budget/Staffing Modification Request form provided by ADMINISTRATOR. CONTRACTOR shall submit a properly completed Budget/Staffing Modification Request to ADMINISTRATOR for consideration, in advance, which shall include a justification narrative specifying the purpose of the request, the amount of said funds to be shifted, and the sustaining annual impact of the shift as may be applicable to the current contract period and/or future contract periods. CONTRACTOR shall obtain written approval of any Budget/Staffing Modification Request(s) from ADMINISTRATOR prior to implementation by CONTRACTOR. Failure of CONTRACTOR to obtain written approval from ADMINISTRATOR for any proposed Budget/Staffing Modification Request(s) may result in disallowance of those costs.

C. CONTRACTOR shall be responsible for the development and implementation of an evaluation subcontract using criteria developed by HCA/TUPP. Ten percent (10%) of the total requested funding must be applied to evaluation services. The evaluator chosen shall be a subcontracted professional evaluator or a staff member experienced in comprehensive evaluation methodology, or a combination of both.

D. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Budget Paragraph to this Exhibit A-1 to the Agreement.

III. Definitions

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

1. Action Plan means a plan that clearly describes how performance outcomes will be achieved. The Action Plan includes, at minimum, performance outcomes, strategies, activities and evaluation; it documents strategies and action steps that will be used to create change in any identified issues area.

2. TUPP Provider Manual means the manual developed by ADMINISTRATOR to describe the specific services to be performed by CONTRACTOR. The TUPP Provider Manual provides guidance, goals, objectives, terminology, and evaluation components.

B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Definitions Paragraph to this Exhibit A-1 to the Agreement.

IV. Payments

A. COUNTY shall pay CONTRACTOR monthly, in arrears, for the actual costs of providing services described hereunder, less revenues which are actually received by CONTRACTOR. All payments are interim payments only and are subject to Final Settlement in accordance with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for the actual cost of providing the services; hereunder provided, however, the total of such payments does not exceed COUNTY's Total Maximum Obligation and, provided further, CONTRACTOR's costs are

reimbursable pursuant to County, State and/or Federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental billings for any month in which the interim payment amount specified above has not been fully paid.

1. In support of the monthly billing, CONTRACTOR shall submit an Expenditure and Revenue Report, which shall have other information including but not limited to, staffing, units of service, and any other information requested by ADMINISTRATOR, as specified in the Reports Paragraph of this Exhibit A-1 to the Agreement. ADMINISTRATOR shall use the Expenditure and Revenue Report to determine payment to CONTRACTOR as specified in Subparagraphs A.2. and A.3., below.

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

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

B. CONTRACTOR's invoices shall be on a form approved or supplied by COUNTY and include such information as is required by ADMINISTRATOR. Invoices are due the twentieth (20th) calendar day of each month and payments to CONTRACTOR should be released by COUNTY no later than twenty-one (21) calendar days after receipt of the correctly completed invoice.

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

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

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

F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Payments Paragraph of this Exhibit A-1 to the Agreement.

V. Reports

A. FISCAL

//

1. Expenditure-Revenue Report – CONTRACTOR shall submit Expenditure and Revenue Reports to ADMINISTRATOR in support of the monthly invoice. These reports shall be on a form approved or provided by ADMINISTRATOR, and shall report actual costs and revenue for each of the CONTRACTOR’s program(s) or cost center(s) described in the Services Paragraph of this Exhibit A-1 to the Agreement. These reports are due to ADMINISTRATOR by the twentieth (20th) calendar day of each month following the end of the month being reported.

2. Year-End Projection Reports – CONTRACTOR shall provide monthly, year-end projections that shall include year-to-date actual costs and revenues, and anticipated year-end actual costs and revenues for CONTRACTOR’s program described in the Services Paragraph of this Exhibit A-1 to the Agreement, and shall be on a form approved or provided by ADMINISTRATOR. Year-End Projection Reports will be submitted in conjunction with the monthly Expenditure and Revenue Reports and are due to ADMINISTRATOR by the twentieth (20th) calendar day of each month following the end of the month being reported.

3. Staffing Report – CONTRACTOR shall submit Staffing Reports to ADMINISTRATOR in support of the monthly invoice. These reports shall be on a form approved or provided by ADMINISTRATOR and shall, at a minimum include actual hours worked by each staff member. These reports are due to ADMINISTRATOR by twentieth (20th) calendar day of each month following the end of the month being reported and are to be submitted in conjunction with the monthly Expenditure and Revenue and Year-End Projection Reports.

B. PROGRAMMATIC

1. CUMULATIVE PROGRAMMATIC REPORTS – CONTRACTOR shall submit quarterly cumulative programmatic reports to ADMINISTRATOR. These reports shall be on a form provided by ADMINISTRATOR. The final programmatic report shall include a process evaluation that shall contain, but not be limited to, an analysis of the effectiveness of strategies used in conducting outreach and tobacco use prevention activities, the overall effectiveness of the program, and changes/recommendations for future projects. The due dates for these reports are identified in the TUPP Provider Manual.

2. MONTHLY NARRATIVE REPORTS – CONTRACTOR shall submit a monthly narrative report documenting progress toward project performance outcomes set forth in the TUPP Provider Manual, project successes, and plans for the following month. These reports are due to ADMINISTRATOR by the fifth (5th) calendar day of each month following the end of the month being reported. CONTRACTOR shall use the monthly Tobacco Settlement Revenue narrative format provided by ADMINISTRATOR. The first monthly narrative report is due to ADMINISTRATOR by August 5, 2020.

C. ADDITIONAL REPORTS - CONTRACTOR shall make additional reports as required by ADMINISTRATOR concerning CONTRACTOR’s activities as they affect the services hereunder. These reports shall be on forms approved or provided by ADMINISTRATOR. ADMINISTRATOR

shall be specific as to the nature of the information requested and, when possible, shall allow thirty (30) calendar days for CONTRACTOR to respond.

D. CONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports and services provided pursuant to this Agreement. CONTRACTOR shall review the reasonableness and accuracy of information prior to making any recommendation, or incorporating such data into any report required hereunder.

E. All reports, drawings, specifications, data, and other incidental work or materials furnished by CONTRACTOR hereunder shall become and remain the property of COUNTY, and may be used by COUNTY as it may require, without any additional cost to COUNTY.

F. CONTRACTOR shall not use reports produced as the result of providing Tobacco Use Prevention Services or data obtained for the purpose of producing such reports without the express written consent of ADMINISTRATOR. All reports shall indicate that the County of Orange Health Care Agency – Tobacco Use Prevention Program funds CONTRACTOR’s services.

G. EVALUATION TOOLS - ADMINISTRATOR shall provide all evaluation tools to CONTRACTOR and train CONTRACTOR staff on protocols for implementation of evaluation tools.

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

VI. Services

A. CONTRACTOR shall provide Tobacco Use Prevention Services in accordance with this Exhibit A-1 to the Agreement, and in support of the COUNTY’s Tobacco Use Prevention plan and goals as defined in the TUPP Provider Manual provided by ADMINISTRATOR. ADMINISTRATOR reserves the right to revise and update the TUPP Provider Manual as needed. ADMINISTRATOR shall notify CONTRACTOR of changes to the TUPP Provider Manual within three (3) business days of said changes.

B. PERFORMANCE OBJECTIVES – FISCAL YEAR 2020-2021

CONTRACTOR shall meet the following performance objectives and complete the detailed activities specified in the TUPP Provider Manual for prevention services by June 30, 2021:

1. Conduct a tobacco and e-cigarette educational presentation to the entire 12th grade student body (with the exception of absent students) at each of the four selected high schools within Orange Unified School District (OUSD) and Placentia Yorba Linda Unified School District (PYLUSD) for approximately 1,170 12th grade students educated.

2. Provide parent education and/or outreach activities at least three times at each of the 4 selected high schools within OUSD and PYLUSD. Education or outreach activities may include educational workshops, tabling events, panels, and/or digital media outreach.

3. Collaborate with the existing youth task force at each of the four selected high schools within OUSD and PYLUSD, consisting of a minimum of 15 students and 1 teacher/advisor per school.

to participate in youth engagement activities, including at least 3 campus-wide events at each of the 4 selected high schools and/or the selected feeder middle schools, for a total of 12 campus-wide events.

4. Assess illegal e-cigarette sales to youth by conducting “attempted buys” with all Orange County commercial tobacco and e-cigarette retailers within a 2-mile radius of the school AND a 1-mile radius of the catchment area of the 4 selected high schools within O U SD, and PYLUSD. AOT will continue to work with the tobacco and e-cigarette retailers that were identified in Years 1, 2 & 3.

5. Conduct merchant education with all Orange County commercial tobacco and e-cigarette retailers within a 2-mile radius of the school AND a 1-mile radius of the catchment area each of the 4 selected high schools within OUSD and PYLUSD to assist them in complying with the Tobacco 21 Law governing the sale of tobacco and e-cigarettes.

6. Increase by 10% the number of individuals (at least 504 total) demonstrating knowledge of the violation for providing e-cigarettes to anyone under the age of 21, through a social sources awareness campaign to raise community awareness of social sources of e-cigarettes within the 4 high school catchment areas within OUSD and PYLUSD.

7. Adapt and implement a “5 Star Merchant” recognition program that rewards responsible tobacco and e-cigarette retailers in the 4 high school catchment areas within OUSD and PYLUSD. A 5 Star Merchant means compliance with all laws governing the sale of tobacco and e-cigarettes.

8. Reorder, revise and/or update a minimum of 9 educational, promotional and/or incentive materials focusing on lowering youth prevalence of e-cigarette use among youth within the 4 high school catchment areas within OUSD and PYLUSD.

9. Place three different print/digital advertisements, developed in Years 1, 2, or 3, and display them at a minimum of five mass-reach media outlets to raise community awareness of social sources, peer-to-peer refusal skills or parent-child communication, and the 5 Star Merchant program within the target high school catchment areas..

C. MEETINGS

1. CONTRACTOR and ADMINISTRATOR shall meet at least once a month to discuss program and strategic issues. ADMINISTRATOR and CONTRACTOR shall agree to the meeting dates in writing.

2. CONTRACTOR shall invite ADMINISTRATOR to all regional meetings scheduled by CONTRACTOR.

3. CONTRACTOR’s Executive Director, Project Coordinator, or designee who has authority to make decisions, shall participate in meetings related to the provision of services pursuant to this Agreement, when requested by ADMINISTRATOR.

D. PATENTS AND COPYRIGHT MATERIALS

1. Unless otherwise expressly provided in this Agreement, CONTRACTOR shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Agreement.

2. CONTRACTOR agrees that any and all "works of authorship," as defined in 17 United States Code Annotated (U.S.C.A.), Section 102(a) which are created, produced, developed, or delivered as part of this Agreement, whether or not published, which can be considered "works made for hire" per 17 U.S.C.A., Section 101, shall be considered works made for hire. CONTRACTOR also agrees that the copyright to any and all such works made for hire under this Agreement, whether published or unpublished, belongs to COUNTY from the moment of creation as that term is defined in 17 U.S.C.A., Section 101. CONTRACTOR agrees that COUNTY shall have a royalty-free, non-exclusive right to use, reproduce, and disseminate all such material.

3. CONTRACTOR agrees and does hereby grant to COUNTY for all purposes a royalty-free, non-exclusive and irrevocable license throughout the world to reproduce, to prepare derivative works, to distribute copies, to perform, to display or to otherwise use, duplicate, or dispose of any work, data or material in any manner, which is created, produced, developed, or delivered as part of this Agreement, but which is not considered a "work made for hire." CONTRACTOR agrees that the COUNTY shall have authority to grant such license to others.

4. CONTRACTOR agrees that if CONTRACTOR enters into any agreements with other parties to perform the work required under this Agreement, that CONTRACTOR shall require that each agreement include clauses granting COUNTY:

a. A copyright interest in any works created, produced, developed, or delivered as "works made for hire," and

b. A royalty-free, non-exclusive, and irrevocable license throughout the world to reproduce, to prepare derivative works, to distribute copies, to perform, to display or to otherwise use, duplicate, or dispose of "works made for hire" or, any work, data or material "not made for hire" under this Agreement.

E. CONTRACTOR shall collaborate with tobacco use prevention providers funded by COUNTY to promote the activities and services described within this Agreement.

F. ADMINISTRATOR may conduct periodic reviews of CONTRACTOR to evaluate performance in meeting the terms of this Agreement. ADMINISTRATOR will notify CONTRACTOR in writing of any issue(s) or concern(s) related to the provision of services pursuant to this Agreement, and may request a plan of corrective action. Corrective action plans may address, but are not limited to performance outcomes, preventative strategies, and/or action plans. CONTRACTOR shall submit a written plan of corrective action for approval within two (2) weeks of request by ADMINISTRATOR. CONTRACTOR may request in advance and in writing, an extension to the due date for a corrective action plan. Approval of the request shall be at the sole discretion of ADMINISTRATOR.

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

institution, or religious belief.

H. SOCIAL MEDIA - If a project related to social media is to be used, CONTRACTOR shall develop necessary policies and procedures and keep them on file.

I. CONTRACTOR agrees to comply with the terms and requirements as directed in the Cessation/Prevention Provider Manual.

J. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Services Paragraph of this Exhibit A-1 to the Agreement.

VII. STAFFING

A. CONTRACTOR shall provide services pursuant to this Agreement by recruiting, hiring, and maintaining administrative and program staff who have the requisite qualifications and experience to provide tobacco use prevention services under this Agreement.

B. CONTRACTOR shall perform a pre-employment screening of any person who will provide services pursuant to this Agreement. All staff, including volunteers and interns, shall meet the following requirements prior to providing any service pursuant to this Agreement:

1. No person, within the preceding two (2) years, shall have been convicted of any criminal offense other than a traffic violation.

2. No person, within the preceding two (2) years, shall have been found guilty of any crime related to the use of drugs or alcohol.

3. No person, at any time, shall have been found guilty of any crime involving moral turpitude by a court of law.

4. No person shall be on parole or probation.

C. All individuals working directly with youth must submit fingerprints and pass a background check, prior to providing services pursuant to this Agreement. CONTRACTOR shall submit to ADMINISTRATOR copies of the results for each individual that has successfully passed the background check. CONTRACTOR shall keep copies for its records.

D. All individuals working directly with youth shall obtain an Activity Supervisor Clearance Certificate issued by the Commission on Teacher Credentialing, prior to assuming a paid or volunteer position to supervise, direct, or coach a pupil activity program sponsored by or affiliated with a school district. The application to obtain a certificate is available at the Commission on Teacher Credentialing website at <http://www.ctc.ca.gov/credentials/apply.html>. CONTRACTOR shall submit to ADMINISTRATOR copies of the certificates for each individual who has successfully obtained an Activity Supervisor Clearance Certificate. Contractor shall keep copies for its records.

E. Separate from the Code of Conduct specified in the Compliance Paragraph of this Agreement, CONTRACTOR shall establish a written Code of Conduct for employees, subcontractors, volunteers, interns, and the Board of Directors which shall include, but not be limited to, standards related to the use of drugs and/or alcohol; staff-participant relationships; prohibition of sexual conduct with participants;

and conflict of interest. Prior to providing any services pursuant to this Agreement, all employees, subcontractors, volunteers, interns, and the Board of Directors shall agree in writing to maintain the standards set forth in the Code of Conduct.

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

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

<u>POSITION</u>	<u>FTEs</u>
<u>ADMINISTRATIVE</u>	
<u>President</u>	<u>0.10</u>
<u>SUBTOTAL ADMINISTRATIVE FTEs</u>	<u>0.10</u>
<u>PROGRAM</u>	
<u>Project Director</u>	<u>0.20</u>
<u>Program Coordinator</u>	<u>0.60</u>
<u>Health Educator</u>	<u>1.00</u>
<u>SUBTOTAL PROGRAM FTEs</u>	<u>1.80</u>
<u>SUBCONTRACTOR</u>	
<u>Evaluation Director</u>	<u>0.05</u>
<u>Evaluation Research Associate</u>	<u>0.13</u>
<u>SUBTOTAL SUBCONTRACTOR FTEs</u>	<u>0.18</u>
<u>TOTAL FTEs</u>	<u>2.08</u>

H. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of any staffing changes; including vacancies associated with termination, resignation, and/or notice of resignation; leaves of absence; promotions; temporary FTE changes; and internal or external temporary staffing assignment requests that occur during the term of the Agreement. CONTRACTOR's notification to ADMINISTRATOR shall provide appropriate information regarding the staffing change, such as but not limited to employee name(s), position title(s), date(s) of resignation/separation, date(s)

