

TABLE OF CONTENTS

<u>PARAGRAPH</u>	<u>PAGE</u>
Title Page.....	1
Table of Contents	2
Referenced Contract Provisions	4
I. Acronyms	5
II. Alteration of Terms	6
III. Assignment of Debts.....	6
IV. Compliance	6
V. Confidentiality.....	10
VI. Cost Report.....	11
VII. Debarment and Suspension Certification	13
VIII. Delegation, Assignment and Subcontracts.....	14
IX. Employee Eligibility Verification	15
X. Equipment	16
XI. Facilities, Payments and Services.....	17
XII. Indemnification and Insurance	17
XIII. Inspections and Audits.....	21
XIV. Licenses and Laws	22
XV. Literature, Advertisements, and Social Media.....	24
XVI. Maximum Obligation.....	24
XVII. Minimum Wage Laws	25
XVIII. Nondiscrimination.....	25
XIX. Notices.....	27
XX. Notification of Death	28
XXI. Notification Of Public Events And Meetings	29
XXII. Records Management and Maintenance	29
XXIII. Research and Publication.....	30
XXIV. Severability.....	30
XXV. Special Provisions	31
XXVI. Status of Contractor	32
XXVII. Term	32
XXVIII. Termination	32
XXIX. Third Party Beneficiary	34
XXX. Waiver of Default or Breach.....	34
Signature Page.....	35

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

	<u>PAGE</u>
<u>EXHIBIT A</u>	
I. Common Terms and Definitions	1
II. Budget	4
III. Payments	5
IV. Reports.....	6
V. Services	7
VI.. Staff	12

<u>EXHIBIT B</u>	
I. Business Associate Contract.....	1

<u>EXHIBIT C</u>	
I. Personal Information Privacy and Security Contract.....	1

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

REFERENCED CONTRACT PROVISIONS

Term: July 1, 2018 through June 30, 2021

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

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

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

Maximum Obligation

Period One Maximum Obligation: \$ 500,000

Period Two Maximum Obligation: 500,000

Period Three Maximum Obligation: 500,000

TOTAL MAXIMUM OBLIGATION: \$1,500,000

Basis for Reimbursement: Actual Cost

Payment Method: Monthly in Arrears

Contractor's DUNS Number: 08-968-7099

Contractor Tax ID Number: 95-2036972

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: Orange County Association for Mental Health
dba Mental Health Association of Orange County
822 Town and Country Road
Orange, CA 92868
Jeffrey Thrash, Chief Executive Officer
thrash@mhaoc.org

//
//
//

I. ACRONYMS

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

- 1 A. ARRA American Recovery and Reinvestment Act
- 2 B. CCC California Civil Code
- 3 C. CCR California Code of Regulations
- 4 D. CEO County Executive Office
- 5 E. CFR Code of Federal Regulations
- 6 F. CHPP COUNTY HIPAA Policies and Procedures
- 7 G. COI Certificate of Insurance
- 8 H. DHCS Department of Health Care Services
- 9 I. DOJ Department of Justice
- 10 J. DRS Designated Record Set
- 11 K. EPSDT Early Periodic Screening, Diagnosis, and Treatment
- 12 L. FSP Full Service Partnership
- 13 M. FSW Full Service Wraparound
- 14 N. FTE Full Time Equivalent
- 15 O. GAAP Generally Accepted Accounting Principles
- 16 P. HCA Health Care Agency
- 17 Q. HHS Health and Human Services
- 18 R. HIPAA Health Insurance Portability and Accountability Act of 1996, Public
19 Law 104-191
- 20 S. HITECH Act Health Information Technology for Economic Clinical Health Act, Public
21 Law 111-005
- 22 T. HSC California Health and Safety Code
- 23 U. ISO Insurance Services Office
- 24 V. LCSW Licensed Clinical Social Worker
- 25 W. MFT Marriage and Family Therapist
- 26 X. MHP Mental Health Plan
- 27 Y. MHSA Mental Health Services Act
- 28 Z. NPI National Provider Identifier
- 29 AA. NPP Notice of Privacy Practices
- 30 AB. OIG Office of Inspector General
- 31 AC. OMB Office of Management and Budget
- 32 AD. OPM Federal Office of Personnel Management
- 33 AE. PC State of California Penal Code
- 34 AF. PCC Professional Clinical Counselors

1	AG. P&P	Policy and Procedure
2	AH. PHI	Protected Health Information
3	AI. PII	Personally Identifiable Information
4	AJ. PRA	Public Record Act
5	AK. QIC	Quality Improvement Committee
6	AL. SED	Seriously Emotionally Disturbed
7	AM. SIR	Self-Insured Retention
8	AN. SMI	Seriously Mentally Ill
9	AO. TAY	Transitional Age Youth
10	AP. TBS	Therapeutic Behavioral Services
11	AQ. USC	United States Code
12	AR. WIC	State of California Welfare and Institutions Code

II. ALTERATION OF TERMS

A. This Agreement, together with Exhibits A, B and C 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.

III. 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.

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

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

- 10 a. Designation of a Compliance Officer and/or compliance staff.
- 11 b. Written standards, policies and/or procedures.
- 12 c. Compliance related training and/or education program and proof of completion.
- 13 d. Communication methods for reporting concerns to the Compliance Officer.
- 14 e. Methodology for conducting internal monitoring and auditing.
- 15 f. Methodology for detecting and correcting offenses.
- 16 g. Methodology/Procedure for enforcing disciplinary standards.

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

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

35 5. Upon written confirmation from ADMINISTRATOR’s Compliance Officer that the
36 CONTRACTOR’s compliance program, code of conduct and any Compliance related policies and
37 procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals

1 relative to this Agreement are made aware of CONTRACTOR’s compliance program, code of conduct,
2 related policies and procedures and contact information for the ADMINISTRATOR’s Compliance
3 Program.

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

11 1. For purposes of this Paragraph IV (COMPLIANCE), Covered Individuals includes all
12 employees, interns, volunteers, contractors, subcontractors, agents, and other persons who provide
13 health care items or services or who perform billing or coding functions on behalf of
14 ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem
15 employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to
16 work more than one hundred sixty (160) hours per year; except that any such individuals shall become
17 Covered Individuals at the point when they work more than one hundred sixty (160) hours during the
18 calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are
19 made aware of ADMINISTRATOR’s Compliance Program, Code of Conduct and related policies and
20 procedures (or CONTRACTOR’s own compliance program, code of conduct and related policies and
21 procedures if CONTRACTOR has elected to use its own).

22 2. An Ineligible Person shall be any individual or entity who:
23 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in
24 federal and state health care programs; or
25 b. has been convicted of a criminal offense related to the provision of health care items or
26 services and has not been reinstated in the federal and state health care programs after a period of
27 exclusion, suspension, debarment, or ineligibility.

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

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

37 //

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33
34 **V. CONFIDENTIALITY**

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

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

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

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

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

20
21 **VI. COST REPORT**

22 A. CONTRACTOR shall submit separate individual and/or consolidated Cost Reports for Period
23 One, Period Two, and Period Three, or for a portion thereof, to COUNTY no later than sixty (60)
24 calendar days following termination of this Agreement. CONTRACTOR shall prepare the individual
25 and/or consolidated Cost Report in accordance with all applicable federal, state and COUNTY
26 requirements, GAAP and the Special Provisions Paragraph of this Agreement. CONTRACTOR shall
27 allocate direct and indirect costs to and between programs, cost centers, services, and funding sources in
28 accordance with such requirements and consistent with prudent business practice, which costs and
29 allocations shall be supported by source documentation maintained by CONTRACTOR, and available at
30 any time to ADMINISTRATOR upon reasonable notice. In the event CONTRACTOR has multiple
31 Agreements for mental health services that are administered by HCA, consolidation of the individual
32 Cost Reports into a single consolidated Cost Report may be required, as stipulated by
33 ADMINISTRATOR. CONTRACTOR shall submit the consolidated Cost Report to COUNTY no later
34 than five (5) business days following approval by ADMINSTRATOR of all individual Cost Reports to
35 be incorporated into a consolidated Cost Report.

36 //
37 //

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

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

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

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

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

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

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

37 //

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

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

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

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

24
25 Signed _____
26 Name _____
27 Title _____
28 Date _____"

29
30 **VII. DEBARMENT AND SUSPENSION CERTIFICATION**

31 A. CONTRACTOR certifies that it and its principals:

- 32 1. Are not presently debarred, suspended, proposed for debarment, and declared ineligible, or
33 voluntarily excluded by any federal department or agency.
34 2. Have not within a three-year period preceding this Agreement been convicted of or had a
35 civil judgment rendered against them for commission of fraud or a criminal offense in connection with
36 obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract
37 under a public transaction; violation of federal or state antitrust statutes or commission of

1 embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or
2 receiving stolen property.

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

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

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

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

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

18
19 **VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

33 2. If CONTRACTOR is a for-profit organization, any change in the business structure,
34 including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of
35 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a
36 change in fifty percent (50%) or more of Board of Directors of CONTRACTOR at one time shall be

37 //

1 deemed an assignment pursuant to this Paragraph. Any attempted assignment or delegation in
2 derogation of this Subparagraph shall be void.

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

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

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

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

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

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

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

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

31
32 **IX. EMPLOYEE ELIGIBILITY VERIFICATION**

33 CONTRACTOR warrants that it shall fully comply with all federal and state statutes and
34 regulations regarding the employment of aliens and others and to ensure that employees, subcontractors,
35 and consultants performing work under this Agreement meet the citizenship or alien status requirement
36 set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,
37 subcontractors, and consultants performing work hereunder, all verification and other documentation of

1 employment eligibility status required by federal or state statutes and regulations including, but not
2 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently
3 exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all
4 covered employees, subcontractors, and consultants for the period prescribed by the law.

5
6 **X. EQUIPMENT**

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

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

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

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

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

35 F. CONTRACTOR must report any loss or theft of Equipment in accordance with the procedure
36 approved by ADMINISTRATOR and the Notices Paragraph of this Agreement. In addition,
37 //

1 CONTRACTOR must complete and submit to ADMINISTRATOR a notification form when items of
2 Equipment are moved from one location to another or returned to COUNTY as surplus.

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

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

9
10 **XI. FACILITIES, PAYMENTS AND SERVICES**

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

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

20
21 **XII. INDEMNIFICATION AND INSURANCE**

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

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

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

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

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

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

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

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

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

31 F. QUALIFIED INSURER

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

37 //

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

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

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

H. REQUIRED COVERAGE FORMS

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

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

I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

4 R. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

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

28
29 **XIII. INSPECTIONS AND AUDITS**

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

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

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

7 C. AUDIT RESPONSE

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

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

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

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

27
28 **XIV. LICENSES AND LAWS**

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

37 //

1 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

- 21 1. ARRA of 2009.
- 22 2. WIC, Division 5, Community Mental Health Services.
- 23 3. WIC, Division 6, Admissions and Judicial Commitments.
- 24 4. WIC, Division 7, Mental Institutions.
- 25 5. HSC, §§1250 et seq., Health Facilities.
- 26 6. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 27 7. CCR, Title 9, Rehabilitative and Developmental Services.
- 28 8. CCR, Title 17, Public Health.
- 29 9. CCR, Title 22, Social Security.
- 30 10. CFR, Title 42, Public Health.
- 31 11. CFR, Title 45, Public Welfare.
- 32 12. USC Title 42. Public Health and Welfare.
- 33 13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 34 14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 35 15. 42 USC §1857, et seq., Clean Air Act.
- 36 16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 37 17. 31 USC 7501.70, Federal Single Audit Act of 1984.

- 1 18. Policies and procedures set forth in Mental Health Services Act.
- 2 19. Policies and procedures set forth in DHCS Letters.
- 3 20. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 4 21. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
- 5 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for
- 6 Federal Awards.

7
8 **XV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

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

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

29
30 **XVI. MAXIMUM OBLIGATION**

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

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

37 //

XVII. 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.

XVIII. 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.

//
//

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

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

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

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

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

37 //

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

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

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

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

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

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

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

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

32
33 **XIX. NOTICES**

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

36 //
37 //

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

4 2. When faxed, transmission confirmed;

5 3. When sent by Email; or

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

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

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

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

18
19 **XX. NOTIFICATION OF DEATH**

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

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

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

30 2. WRITTEN NOTIFICATION

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

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

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

5
6 **XXI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

14
15 **XXII. RECORDS MANAGEMENT AND MAINTENANCE**

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

19 B. CONTRACTOR shall implement and maintain administrative, technical and physical
20 safeguards to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of
21 PHI in violation of the HIPAA, federal and state regulations and/or CHPP. CONTRACTOR shall
22 mitigate to the extent practicable, the known harmful effect of any use or disclosure of PHI made in
23 violation of federal or state regulations and/or COUNTY policies.

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

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

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

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

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

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

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

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

7 1. Have documents readily available within forty-eight (48) hour notice of a scheduled audit
8 or site visit.

9 2. Provide auditor or other authorized individuals access to documents via a computer
10 terminal.

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

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

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

19 J. CONTRACTOR shall retain all client and/or patient medical records for ten (10) years
20 following discharge of the client and/or patient, with the exception of non-emancipated minors for
21 whom records must be kept for at least one (1) year after such minors have reached the age of eighteen
22 (18) years, or for ten (10) years after the last date of service, whichever is longer.

23
24 **XXIII. RESEARCH AND PUBLICATION**

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

28
29 **XXIV. SEVERABILITY**

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

35 //
36 //
37 //

XXV. 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.
- 5. Reimbursement of CONTRACTOR’s members of the Board of Directors for expenses or services.
- 6. Making personal loans to CONTRACTOR’s staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors 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. Supplanting current funding for existing services.

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. Purchasing or improving land, including constructing or permanently improving any building or facility, except for tenant improvements.
- 6. Providing inpatient hospital services or purchasing major medical equipment.
- 7. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal funds (matching).
- 8. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR’s clients.

XXVI. 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.

XXVII. TERM

A. The term of this Agreement shall commence as specified in the Referenced Contract Provisions of this Agreement. 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.

XXVIII. TERMINATION

A. Either party may terminate this Agreement, without cause, upon ninety (90) 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.

//

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

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

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

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

11 D. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17
18 **XXIX. THIRD PARTY BENEFICIARY**

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

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

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

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

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

3
4 ORANGE COUNTY ASSOCIATION FOR MENTAL HEALTH
5 DBA MENTAL HEALTH ASSOCIATION OF ORANGE COUNTY

6
7 DocuSigned by:
8 BY: Jeff Thrash DATED: 3/29/2018
9 94C5D4F5B2E54BC...

10 TITLE: CEO

11
12
13
14
15 COUNTY OF ORANGE

16
17
18 BY: _____ DATED: _____
19 HEALTH CARE AGENCY

20
21
22
23
24 APPROVED AS TO FORM
25 OFFICE OF THE COUNTY COUNSEL
26 ORANGE COUNTY, CALIFORNIA

27
28 DocuSigned by:
29 BY: Eric Divine DATED: 3/28/2018
30 C4E3686C1E6D4FD...
31 DEPUTY

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

1 EXHIBIT A
 2 AGREEMENT FOR PROVISION OF
 3 CHILDREN AND TRANSITIONAL AGE YOUTH MENTORING SERVICES
 4 BETWEEN
 5 COUNTY OF ORANGE
 6 AND
 7 ORANGE COUNTY ASSOCIATION FOR MENTAL HEALTH
 8 DBA MENTAL HEALTH ASSOCIATION OF ORANGE COUNTY
 9 JULY 1, 2018 THROUGH JUNE 30, 2021

10
 11 **I. COMMON TERMS AND DEFINITIONS**

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

14 1. Client means any individual, referred or enrolled, for services under the Agreement who is
 15 living with mental, emotional, or behavioral disorders.

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

20 3. EPSDT means the State of California’s implementation of the Federal child health
 21 component of Medicaid program which provides physical, mental and developmental health services for
 22 children and young adults.

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

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

31 6. FSW means the specific program model described in COUNTY’s MHSA plan. The FSW
 32 program provides culturally competent in-home, intensive, mental health care coordination services that
 33 will address family needs across all life domains of the Client.

34 7. Live Scan means an inkless, electronic fingerprint which is transmitted directly to the DOJ
 35 for the completion of a criminal background check, typically required of employees who have direct
 36 contact with Clients.

37 //

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

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

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

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

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

25 13. Program Director means an individual who is responsible for all aspects of administration
26 and clinical operations of the Mentoring Services program, including development and adherence to the
27 annual budget. This individual will also be responsible for the following: hiring, development and
28 performance management of professional and support staff, and ensuring mental health treatment
29 services are provided in concert with local and state rules and regulations.

30 14. PHI means individually identifiable health information usually transmitted through
31 electronic media. PHI can be maintained in any medium as defined in the regulations, or for an entity
32 such as a health plan, transmitted or maintained in any other medium. It is created or received by a
33 covered entity and is related to the past, present, or future physical or mental health or condition of an
34 individual, provision of health care to an individual, or the past, present, or future payment for health
35 care provided to an individual.

36 //
37 //

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

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

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

15 18. Supervisory Review means ongoing clinical reviews in accordance with procedures
16 developed by COUNTY to determine the appropriateness of the diagnosis and treatment plan for
17 Clients, as well as to monitor compliance to the minimum ADMINISTRATOR and Medi-Cal charting
18 standards. Supervisory review is conducted by the Program Director or designee.

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

21 //
22 //
23 //
24 //
25 //
26 //
27 //
28 //
29 //
30 //
31 //
32 //
33 //
34 //
35 //
36 //
37 //

II. BUDGET

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

ADMINISTRATIVE COST	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>	<u>TOTAL</u>
Indirect	\$ 55,200	\$ 55,200	\$ 55,200	\$ 165,600
PROGRAM COST				
Salaries	\$ 299,156	\$ 299,156	\$ 299,156	\$ 897,468
Benefits	56,840	56,840	56,840	170,520
Services and Supplies	<u>88,804</u>	<u>88,804</u>	<u>88,804</u>	<u>266,412</u>
SUBTOTAL PROGRAM COST	\$ 444,800	\$ 444,800	\$ 444,800	\$ 1,334,400
TOTAL GROSS COST	\$ 500,000	\$ 500,000	\$ 500,000	\$ 1,500,000
REVENUE				
MHSA	\$ 500,000	\$ 500,000	\$ 500,000	\$ 1,500,000
TOTAL MAXIMUM OBLIGATION	\$ 500,000	\$ 500,000	\$ 500,000	\$ 1,500,000

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

C. FINANCIAL RECORDS - CONTRACTOR shall prepare and maintain accurate and complete financial records of its cost and operating expenses. Such records will reflect the actual cost of the type of service for which payment is claimed. Any apportionment of or distribution of costs, including indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will

1 be made in accordance with GAAP, and Medicare regulations. The Client eligibility determination and
2 fee charged to and collected from Clients, together with a record of all invoices rendered and revenues
3 received from any source, on behalf of Clients treated pursuant to this Agreement, must be reflected in
4 CONTRACTOR's financial records.

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

7
8 **III. PAYMENTS**

9 A. COUNTY shall pay CONTRACTOR monthly, in arrears, for Period One, Period Two, and
10 Period Three at the provisional amount of \$41,667 per month. All payments are interim payments only,
11 and subject to final settlement in accordance with the Cost Report Paragraph of the Agreement for
12 which CONTRACTOR shall be reimbursed for the actual cost of providing the services; provided,
13 however, the total of such payments does not exceed COUNTY's Maximum Obligation as stated in the
14 Referenced Contract Provisions of the Agreement and, provided further, CONTRACTOR's costs are
15 reimbursable pursuant to COUNTY, state, and/or federal regulations. ADMINISTRATOR may, at its
16 discretion, pay supplemental invoices for any month for which the provisional amount specified above
17 has not been fully paid.

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

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

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

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

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

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

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

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

11
12 **IV. REPORTS**

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

15 **B. FISCAL**

16 1. Expenditure and Revenue Report. CONTRACTOR shall submit monthly Expenditure and
17 Revenue Reports to ADMINISTRATOR. These reports will be on a form provided by
18 ADMINISTRATOR and will report year-to-date actual costs and revenues (if applicable) for
19 CONTRACTOR’s program described in the Services Paragraph of this Exhibit A to the Agreement
20 Such reports will also include actual productivity as defined by ADMINISITRATOR.

21 2. Year-End Projections. In conjunction with the Expenditure and Revenue Report,
22 CONTRACTOR shall provide monthly year-end projections that shall include year-to-date actual costs
23 and revenues (if applicable) and anticipated year-end actual costs and revenues (if applicable) for
24 CONTRACTOR’s program described in the Services Paragraph of this Exhibit A to the Agreement.

25 3. The Expenditure and Revenue and Year-End Projection report shall be received by
26 ADMINISTRATOR no later than twenty (20) calendar days following the end of the month being
27 reported.

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

33 D. PROGRAMMATIC – Throughout the term of the Agreement, CONTRACTOR shall submit
34 monthly programmatic reports to ADMINISTRATOR, which shall be received by ADMINISTRATOR
35 no later than twenty (20) calendar days following the end of the month being reported. Programmatic
36 reports shall be in a format(s) approved by ADMINISTRATOR and shall include a description of
37 CONTRACTOR's progress in implementing the provisions of the Agreement, number of active cases,

1 number of Client’s admitted/discharged, details of outreach activities and their results, any pertinent
2 facts or interim findings, staff changes, status of licenses and/or certifications, changes in population
3 served and reasons for any such changes. CONTRACTOR shall be prepared to present and discuss their
4 programmatic reports at their monthly scheduled meetings with ADMINISTRATOR and shall state
5 whether or not it is progressing satisfactorily in achieving all the terms of the Agreement, and if not,
6 shall specify what steps are being taken to achieve satisfactory progress.

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

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

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

16
17 **V. SERVICES**

18 **A. FACILITIES**

19 1. CONTRACTOR shall maintain a minimum of one (1) facility which meets the COUNTY’s
20 requirements for the provision of Mental Health Mentoring Services for Children, TAY, and their
21 parent(s)/guardian(s) at the following location or any other location approved by ADMINISTRATOR:

22
23 790 Town and Country Road
24 Orange, CA 92868
25

26 2. CONTRACTOR shall maintain a holiday schedule consistent with COUNTY’s holiday
27 schedule, unless otherwise approved, in writing, by ADMINISTRATOR.

28 3. CONTRACTOR shall maintain regularly scheduled service hours, five days a week
29 throughout the year, as approved by ADMINISTRATOR, and maintain the capability to provide
30 services especially during after-school hours on weekdays and on weekends to accommodate Clients.

31 B. INDIVIDUALS TO BE SERVED – CONTRACTOR shall provide the services hereunder to
32 Clients, between the ages of eight (8) and twenty-five (25), until 26th birthday, and their families, who
33 have been referred or approved by ADMINISTRATOR. Services to Clients shall be individualized and
34 delivered in the language preferred by the Client.

35 //
36 //
37 //

1 C. MENTORING SERVICES

2 1. CONTRACTOR shall deliver Mental Health Mentoring Services to SED and SMI Clients
3 and their parent(s)/guardian(s) who are receiving Mental Health Services in COUNTY mental health
4 programs.

5 2. CONTRACTOR shall accept requests for Mentoring Services from therapists providing
6 Mental Health Services in the COUNTY or contract operated programs including, but not limited to,
7 Clients meeting the following criteria:

- 8 a. COUNTY residents;
- 9 b. Displaying behaviors or a history indicative of SED as defined by the California WIC
10 5000.3;
- 11 c. Experiencing significant familial conflict;
- 12 d. At risk of hospitalization and/or out-of-home placement or homelessness;
- 13 e. Unserved or underserved because of linguistic or cultural isolation; and

14 3. CONTRACTOR shall use "best practices" to ensure mentors and Clients are matched in a
15 manner that leads to the safest and most effective relationship possible.

16 a. The screening process for the match shall include, but not be limited to: formal and
17 informal interviews, personal profiles, comparative interest inventories, and get-acquainted sessions.

18 b. CONTRACTOR shall also consider ethnicity, culture, language capability and age
19 during the matching process as it relates to the Client's needs.

20 c. Once the match has been established, mentors and Clients are to meet regularly based
21 upon frequency and duration mutually agreed upon by all interested parties. Parent(s)/guardian(s) shall
22 be involved in the mentor arrangements made for Client(s). Mentoring frequency for Clients may vary
23 between two (2) and five (5) hours per week, depending upon the needs of the Client.

24 d. The mentoring duration shall be targeted at six (6) months, however, this may be
25 modified for clinical reasons with the concurrence of ADMINISTRATOR.

26 e. For mentors working with a Client's "parent/guardian," the frequency may vary
27 between four (4) and eight (8) hours per month. The duration of the parent/guardian mentoring
28 relationship shall be determined on an individual basis and needs of Client and the parent/guardian with
29 six (6) months being the anticipated length of the match.

30 f. CONTRACTOR shall ensure mentors maintain ongoing contact with the Client's
31 primary therapist, so pertinent changes in Client's circumstances can be communicated between the
32 mentor and the therapist. This will also allow input from the therapist regarding the mentoring
33 relationship.

34 4. CONTRACTOR shall work closely with COUNTY programs when a referral is made.
35 CONTRACTOR shall not refuse therapists' referrals if CONTRACTOR has available space and
36 appropriate staffing to provide mentors, unless otherwise approved by ADMINISTRATOR.

37 //

1 5. CONTRACTOR shall promote the benefits of mentoring to the community at large. In
2 addition, CONTRACTOR shall ensure that any resource offered by community agencies and/or
3 individuals from the community as a result of mentoring promotion is used for the direct benefit of the
4 Clients (e.g., donated tickets to community events).

5 6. CONTRACTOR shall develop procedures that monitor quality assurance, provide outcome
6 measures of Client satisfaction, and measure overall program performance to meet national standards of
7 mentoring performance outcomes.

8 7. CONTRACTOR shall maintain an accurate and regularly updated mentor program
9 webpage(s) to serve as an information source.

10 D. CLIENT RECORDS – CONTRACTOR shall maintain adequate records on each individual
11 Client which shall include diagnostic studies, records of Client interviews, progress notes, and records
12 of service provided by various personnel in sufficient detail to permit an evaluation of services.
13 CONTRACTOR shall use COUNTY charting procedures regarding the use of forms and organization
14 of documentation in the Clients’ records.

15 1. ADMINISTRATOR may provide CONTRACTOR with copies of relevant database
16 information which may include psychiatric and psychosocial histories, community functioning
17 evaluations, coordination plans, service plans, medication records, and progress notes.

18 2. CONTRACTOR shall retain a complete and true copy of any Client record and respond to
19 any requests for records pursuant to the Records Management and Maintenance Paragraph of the
20 Agreement.

21 E. CONTRACTOR REPONSIBILITIES

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

25 2. CONTRACTOR shall ensure that all staff complete the COUNTY’s Annual Provider
26 Training, and if applicable, staff responsible for input into IRIS complete IRIS New User Training.

27 3. CONTRACTOR shall agree to adopt and comply with the written Quality Improvement
28 Implementation Plan and procedures provided by ADMINISTRATOR which describe the requirements
29 for quality improvement and supervisory review.

30 4. CONTRACTOR shall agree, as appropriate to the program, to adopt and comply with the
31 documentation standards as per ADMINISTRATOR’s Standards of Care practices; P&P’s, Annual
32 Provider Training; DHCS State Contract; Title IX; the State EPSDT Documentation Manual; the State
33 EPSDT TBS Documentation Manual; and the EPSDT TBS Coordination of Care Best Practices Manual
34 as provided by ADMINISTRATOR, which describe, but are not limited to, the requirements for Medi-
35 Cal and ADMINISTRATOR charting standards; and any state regulatory requirements.

36 5. CONTRACTOR shall maintain on file at the facility minutes and records of all quality
37 improvement meetings and processes. Such records and minutes shall also be subject to regular review

1 by ADMINISTRATOR in the manner specified in the Quality Improvement Implementation Plan and
2 ADMINISTRATOR's P&Ps.

3 6. CONTRACTOR shall allow ADMINISTRATOR to attend, and if necessary conduct, QIC
4 and monitoring meetings.

5 7. CONTRACTOR shall participate in any clinical review and implement any
6 recommendations made by ADMINISTRATOR to improve Client care.

7 F. PRODUCTIVITY – CONTRACTOR shall target a total of two hundred twenty-five (225)
8 Clients. CONTRACTOR shall also provide at least three thousand (3,000) Client Service Hours.

9 G. PERFORMANCE OUTCOMES

10 1. CONTRACTOR shall complete Performance Outcome Measures as required by state
11 and/or COUNTY.

12 2. Until updated, CONTRACTOR shall use the Readiness for Change measure for the purpose
13 of evaluating the impact and/or contribution of CONTRACTOR's services on the well-being of
14 COUNTY residents being served under the terms of the Agreement. Progress toward treatment goals
15 and satisfaction surveys shall be completed by the therapist, mentor, and mentee whenever possible. All
16 ratings will be made at pre-match and at discharge. The expected outcomes for the Monitoring Program
17 are that Clients demonstrate an improvement in resilience and are ready to, or are moving towards,
18 adopting positive life changes at the time of discharge from the program.

19 H. TOKENS – ADMINISTRATOR shall provide CONTRACTOR the necessary number of
20 Tokens for appropriate individual staff to access a Shared Folder that contains client and staffing
21 information at no cost to the CONTRACTOR.

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

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

26 3. CONTRACTOR shall indicate in the Program Monthly Staffing Report, the serial number
27 of the Token for each staff member assigned a Token.

28 4. CONTRACTOR shall return to ADMINISTRATOR all Tokens under the following
29 conditions:

- 30 a. Token of each staff member who no longer supports the Agreement;
- 31 b. Token of each staff member who no longer requires access to the Shared Folder;
- 32 c. Token of each staff member who leaves employment of CONTRACTOR; or
- 33 d. Token is malfunctioning;
- 34 e. Termination of the Agreement.

35 5. ADMINISTRATOR shall issue Tokens for CONTRACTOR's staff members who require
36 access to the Shared Folder upon initial training or as a replacement for malfunctioning Tokens.

37 //

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

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

8 J. CONTRACTOR shall not engage in, or permit any of its employees or subcontractors, to
9 conduct research activity on COUNTY Clients without obtaining prior written authorization from
10 ADMINISTRATOR.

11 K. CONTRACTOR shall provide effective administrative management of the budget, staffing,
12 recording, and reporting portion of the Agreement with the COUNTY. If administrative responsibilities
13 are delegated to subcontractors, CONTRACTOR must ensure that any subcontractor(s) possess the
14 qualifications and capacity to perform all delegated responsibilities. These responsibilities include, but
15 are not limited to, the following:

- 16 1. Designate the responsible position(s) in your organization for managing the funds allocated
- 17 to this program;
- 18 2. Maximize the use of the allocated funds;
- 19 3. Ensure timely and accurate reporting of monthly expenditures;
- 20 4. Maintain appropriate staffing levels;
- 21 5. Request budget and/or staffing modifications to the Agreement;
- 22 6. Effectively communicate and monitor the program for its success;
- 23 7. Track and report expenditures electronically;
- 24 8. Maintain electronic and telephone communication between CONTRACTOR and
- 25 ADMINISTRATOR; and
- 26 9. Act quickly to identify and solve problems.

27 L. CONTRACTOR shall document all adverse incidents affecting the physical and/or emotional
28 welfare of Clients, including but not limited to serious physical harm to self or others, serious
29 destruction of property, developments, etc., and which may raise liability issues with COUNTY.
30 CONTRACTOR shall notify COUNTY within twenty-four (24) hours of any such serious adverse
31 incident.

32 M. CONTRACTOR shall advise ADMINISTRATOR of any special incidents, conditions, or issues
33 that adversely affect the quality or accessibility of Client-related services provided by, or under contract
34 with, the COUNTY as identified in the ADMINISTRATOR's P&Ps.

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

37 //

VI. STAFFING

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

DIRECT NON-DSH PROGRAM

Program Director	1.00
Mentor Coordinator	3.00
Staff Assistant/Program Support	0.75
TAY-Youth Mentor	3.50
Parent Mentor	<u>0.50</u>
TOTAL FTEs	8.75

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

C. CONTRACTOR shall be responsible for the recruitment of all mentors and volunteers used in the program.

1. Recruitment efforts shall include, but not be limited to, recruiting from the corporate, professional, educational and faith-based community organizations in COUNTY, as well as other neighborhood and cultural groups that represent the local demographics. Recruitment efforts shall take into consideration the principles outlined in the MHSA and shall include those who are bilingual in threshold languages, former recipients of behavioral health services, and/or family members of those who have received behavioral health services.

2. CONTRACTOR shall develop, implement, and maintain a “strength-based” recruitment process. This pro-active recruitment process will ensure a sufficient and diverse pool of mentors to meet the needs of the ethnic and linguistic makeup of Clients being served in COUNTY.

D. CONTRACTOR shall be responsible for the provision of all screening requirements for employees and volunteers, including but not be limited to Live Scan, the Department of Motor Vehicles Pull Report, and all other requirements as set forth in the Agreement.

E. CONTRACTOR shall maintain personnel files for each staff person, including management and other administrative positions, both direct and indirect which shall include, but not be limited to, an application for employment, qualifications for the position, applicable licenses, Live Scan results,

1 | waivers, registrations, documentation of bicultural/bilingual capabilities (if applicable), pay rate and
2 | evaluations justifying pay increases.

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

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

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

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

22 | J. CONTRACTOR shall develop and implement a training curriculum for mentors, as well as
23 | provide instruction and referral materials to COUNTY programs that may refer COUNTY clients for
24 | Mentoring Services.

25 | 1. CONTRACTOR's training program shall use standards and principles that are considered
26 | "best practices" by nationally known mentoring organizations, such as the MENTOR/National
27 | Mentoring Partnership, an organization widely acknowledged as the nation's premier advocate and
28 | resource for the expansion of mentoring initiatives.

29 | 2. CONTRACTOR's training program shall include, but not be limited to: addressing issues
30 | of Client safety, maintaining appropriate ethical boundaries, conflict resolution, and maintaining
31 | confidentiality of Client information.

32 | K. CONTRACTOR shall provide initial and on-going training and staff development that includes
33 | but is not limited to the following:

- 34 | 1. Orientation to the program's goals and P&Ps; and
- 35 | 2. Training on subjects as required by state regulations.

36 | //

37 | //

1 L. STUDENT INTERNS

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

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

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

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

12 M. CONTRACTOR shall maintain an accurate and regularly updated mentor program webpage(s)
13 to serve as mentor recruitment tool. The page(s) shall include an online application process allowing
14 interested volunteers to apply to become a mentor as this is a best practice model.

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

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

29 //

30 //

31 //

32 //

33 //

34 //

35 //

36 //

37 //

1 EXHIBIT B
2 TO AGREEMENT FOR PROVISION OF
3 CHILDREN AND TRANSITIONAL AGE YOUTH MENTORING SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 ORANGE COUNTY ASSOCIATION FOR MENTAL HEALTH
8 DBA MENTAL HEALTH ASSOCIATION OF ORANGE COUNTY
9 JULY 1, 2018 THROUGH JUNE 30, 2021

10
11 **I. BUSINESS ASSOCIATE CONTRACT**

12 A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

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

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

4 B. DEFINITIONS

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

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

10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

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

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

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

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

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

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

30 18. "Use" shall have the meaning given to such term under the HIPAA regulations in
31 45 CFR § 160.103.

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

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

36 2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business
37 Associate Contract and the Agreement, to prevent use or disclosure of PHI COUNTY discloses to

1 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
2 other than as provided for by this Business Associate Contract.

3 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of
4 45 CFR Part 164 with respect to ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR
5 creates, receives, maintains, or transmits on behalf of COUNTY.

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

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

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

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

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

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

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

35 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY, in
36 a time and manner to be determined by COUNTY, that information collected in accordance with the

37 //

1 Agreement, in order to permit COUNTY to respond to a request by an Individual for an accounting of
2 Disclosures of PHI in accordance with 45 CFR § 164.528.

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

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

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

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

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

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

37 //

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

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

7 D. SECURITY RULE

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

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

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

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

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

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

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

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

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

4 E. DATA SECURITY REQUIREMENTS

5 1. Personal Controls

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

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

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

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

31 2. Technical Security Controls

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

37 //

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

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

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

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

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

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

- 36 1) Upper case letters (A-Z)
- 37 2) Lower case letters (a-z)

3) Arabic numerals (0-9)

4) Non-alphanumeric characters (punctuation symbols)

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

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

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

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

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

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

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

//

3. Audit Controls

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

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

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

4. Business Continuity/Disaster Recovery Control

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

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

5. Paper Document Controls

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

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

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

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

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

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

19 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

14 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
15 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
16 COUNTY.

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

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

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

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

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

1 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

11 1) The Disclosure is required by law; or

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

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

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

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

24 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as
25 required by law.

26 H. PROHIBITED USES AND DISCLOSURES

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

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

36 //

37 //

1 I. OBLIGATIONS OF COUNTY

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

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

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

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

13 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

35 //

36 //

37 //

1 EXHIBIT C
 2 AGREEMENT FOR PROVISION OF
 3 CHILDREN AND TRANSITIONAL AGE YOUTH MENTORING SERVICES
 4 BETWEEN
 5 COUNTY OF ORANGE
 6 AND
 7 ORANGE COUNTY ASSOCIATION FOR MENTAL HEALTH
 8 DBA MENTAL HEALTH ASSOCIATION OF ORANGE COUNTY
 9 JULY 1, 2018 THROUGH JUNE 30, 2021

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

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

14 A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

6 B. TERMS OF AGREEMENT

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

11 2. Responsibilities of CONTRACTOR

12 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

34 | //
35 | //
36 | //
37 | //