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AGREEMENT  
BETWEEN  
COUNTY OF ORANGE  
AND  
<PROVIDER>

FOR THE PROVISION OF DRUG PATCH TESTING SERVICES

THIS AGREEMENT, entered into this 1st day of **July 2016**, which date is particularized for purpose of reference only, is by and between the COUNTY OF ORANGE, hereinafter referred to as "COUNTY," and <PROVIDER>, an independent CONTRACTOR doing business at <STREET>, <CITY>, CA, <ZIP> hereinafter referred to as "CONTRACTOR." This Agreement shall be administered by the County of Orange Social Services Agency Director or designee, hereinafter referred to as "ADMINISTRATOR."

W I T N E S S E T H:

WHEREAS, COUNTY desires to contract with CONTRACTOR for the provision of drug patch testing services to clients referred by ADMINISTRATOR; and

WHEREAS, CONTRACTOR agrees to render such services on the terms and conditions hereinafter set forth;

WHEREAS, such contracts are authorized and provided for pursuant to California Welfare and Institutions Code Section 16501:

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

///

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1. TERM

The term of this Agreement shall commence on **July 1, 2016**, and terminate on **June 30, 2019**, unless earlier terminated pursuant to the provisions of Paragraph 39 of this Agreement; 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 indemnification, audits, reporting and accounting.

2. ALTERATION OF TERMS

This Agreement, including any Exhibit(s) attached hereto and incorporated by reference, fully expresses all understandings of the parties and is the total Agreement between the parties as to the subject matter of this Agreement. No addition to, or alteration of, the terms of this Agreement, whether written or verbal, by the parties, their officers, agents, or employees, shall be valid unless made in the form of a written amendment to this Agreement which is formally approved and executed by both parties.

3. STATUS OF CONTRACTOR

3.1 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. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR or any of CONTRACTOR's agents or employees. CONTRACTOR assumes exclusively the responsibility for the acts of its employees or agents as they relate to services to be provided during the course and scope of their employment.

3.2 CONTRACTOR, its agents, employees and volunteers shall not be entitled to any rights and/or privileges of COUNTY employees, and shall not be considered in any manner to be COUNTY employees.



1 CONTRACTOR shall advise assigned social worker by telephone or letter, within  
2 ten (10) calendar days of receiving the referral, if attempts to schedule an  
3 initial appointment for the client are not successful. CONTRACTOR shall  
4 maintain documentation of all attempted failed and successful contacts with  
5 clients and assigned social workers.

6 4.6 To enhance CLIENT compliance, CONTRACTOR may contact clients to  
7 offer reminders of drug patch application/removal appointments.

8 4.7 CONTRACTOR shall collaborate with ADMINISTRATOR and Pharmchem to  
9 establish a primary account number and a subaccount number that will be used  
10 exclusively for all clients referred for drug patch testing.

11 4.8 CONTRACTOR shall only use chain-of-custody forms that include  
12 CONTRACTOR's subaccount number as referenced in Subparagraph 4.7.

13 4.9 CONTRACTOR shall print each client's name on the chain-of-custody  
14 form exactly as it appears on the client's referral. Each client's name must  
15 be printed, evenly spaced, in all capital block letters such as A-B-C-D-E-F-G,  
16 etc., or typed on a label and affixed to the chain-of-custody form.

17 4.10 CONTRACTOR shall administer the drug patch to clients in strict  
18 accordance with procedures established by Pharmchem and must refuse to  
19 administer tests to clients who show up at times not previously scheduled or  
20 approved for drug patch testing services. Pharmchem's procedures are included  
21 in the Pharmchem Training Manual which is available on the Pharmchem website,  
22 [www.pharmchem.com](http://www.pharmchem.com).

23 4.11 CONTRACTOR's staff designated to administer the drug patch to the  
24 skin of a client shall possess a current certification from Pharmchem.

25 4.12 CONTRACTOR shall provide each client, upon application of the  
26 client's first drug patch, an instruction card regarding the use of the drug  
27 patch and drug patch testing services requirements. ADMINISTRATOR will  
28 provide English and Spanish instruction cards to CONTRACTOR for clients

1           4.13 CONTRACTOR shall maintain safeguards established in writing by  
2 ADMINISTRATOR to ensure the confidentiality of clients and test results.

3           4.14 CONTRACTOR shall only utilize a laboratory approved by Pharmchem  
4 for drug patch analysis.

5           4.15 CONTRACTOR shall apply a new drug patch to the skin of referred  
6 clients on a weekly basis, typically one drug patch every seven (7) to ten  
7 (10) calendar days as described in Paragraph 4.16.

8           4.16 CONTRACTOR shall apply a Pharmchek® Overlay, a drug patch  
9 protective device that prevents excessive sweat from affecting the drug patch  
10 adhesive, on top of each newly applied drug patch. Clients shall wear the drug  
11 patch for a minimum of seven (7) calendar days and a maximum of ten (10)  
12 calendar days. CONTRACTOR shall remove and send the drug patch specimen to  
13 the approved laboratory for testing. Drug patches worn for a period longer  
14 than ten (10) calendar days must not be submitted for analysis.

15           4.17 CONTRACTOR shall mail drug patch specimens, at a minimum by First  
16 Class mail, to the laboratory within twenty-four (24) hours of removal, using  
17 mailing packages prepared by Pharmchem. If a drug patch is removed on a  
18 Saturday, it must be mailed to the laboratory no later than the following  
19 Monday. If the date the specimen would normally be mailed coincides with a  
20 holiday observed by COUNTY per Subparagraph 18.4.1 the specimen must be mailed  
21 on the next day that postal service is available.

22           4.18 SSA employees authorized to access client records in the  
23 laboratory's client test result website shall retrieve, print and distribute  
24 test results for clients under primary and/or subaccount numbers referenced in  
25 Subparagraph 4.7 above. CONTRACTOR shall not perform these duties described in  
26 this paragraph 4.18 and shall not be compensated for such.

27           4.19 CONTRACTOR shall serve as a liaison between ADMINISTRATOR and the  
28 laboratory to ensure that any errors on the laboratory's client test result

1 website are corrected. Errors may include but are not limited to:

2 4.19.1 Misspelling of a client's name;

3 4.19.2 Inaccurate test date; and

4 4.19.3 Test results posted to an incorrect account number.

5 4.20 ADMINISTRATOR will advise CONTRACTOR in writing when an error  
6 pertaining to a client's test result record is identified on the laboratory's  
7 website. CONTRACTOR shall contact the laboratory within one (1) business day  
8 of receiving notice from ADMINISTRATOR to request correction of an identified  
9 error on the laboratory's website.

10 4.21 CONTRACTOR must notify the assigned social worker via telephone,  
11 within one (1) business day, if CONTRACTOR observes any irregularity when  
12 removing a client's drug patch such as, but not limited to:

13 4.21.1 Overlay and/or drug patch appears to be tampered with;

14 4.21.2 Client returned for drug patch removal more than ten (10)  
15 calendar days after it was applied; and

16 4.21.3 Client reports the drug patch fell off.

17 4.22 CONTRACTOR must notify the assigned social worker or the Officer  
18 of the Day immediately, and must complete a Special Incident Report (SIR), in  
19 the event there is any incident of unusual, aggressive or high-risk behavior  
20 by a client, or if there are any injuries suffered by any party during the  
21 service delivery. CONTRACTOR must use the SIR form provided by ADMINISTRATOR  
22 and submit the form within one (1) business day. A copy of the SIR must be  
23 retained in the client's file.

24 4.23 CONTRACTOR shall appear and testify at Juvenile Court hearings,  
25 when subpoenaed.

26 4.24 Utilization Reviews:

27 4.24.1 CONTRACTOR and ADMINISTRATOR shall meet upon  
28 ADMINISTRATOR's request at CONTRACTOR's facility to review and evaluate a

1 random selection of client records. The review shall include, but is not  
2 limited to, an evaluation of the completeness and appropriateness of services  
3 provided, documentation, and recordkeeping of service delivery. Records to be  
4 reviewed shall be selected by ADMINISTRATOR. CONTRACTOR shall have all records  
5 pertaining to clients at their facility at the scheduled time of each  
6 Utilization Review.

7 4.25 Invoicing Requirements:

8 4.25.1 CONTRACTOR shall submit a billing statement each month  
9 for all clients for whom a drug patch was applied and removed, analysis  
10 completed, and test results posted to the laboratory's website. When the drug  
11 patch is applied, removed, and mailed in one month, and the results are posted  
12 to the laboratory's website during the following month, the service shall be  
13 billed for the month in which the test result was initially posted to the  
14 laboratory's website.

15 4.25.2 Monthly invoices shall include the total number of all  
16 new or unduplicated test results posted to the laboratory's website for a  
17 period of the first date of a single month through the last date of the same  
18 month.

19 4.26 Monthly Reporting Requirements:

20 4.26.1 CONTRACTOR shall submit to ADMINISTRATOR, by the tenth  
21 (10<sup>th</sup>) calendar day of each month, a statistical report covering services  
22 provided during the previous month. The report will include, but not be  
23 limited to:

24 4.26.2 Name and drug testing identification number of each  
25 client served;

26 4.26.3 Date each billed drug patch was applied, removed, mailed  
27 to laboratory, and date the test result was posted to the laboratory's  
28 website, a designation as a positive or negative test result, and the service



1 location;

2 4.26.4 Number of unduplicated clients who reported for testing;

3 4.26.5 Number of drug patches applied, removed, and successfully  
4 tested;

5 4.26.6 Number of times a drug patch was applied but not sent to  
6 the laboratory and the reason why;

7 4.26.7 Number of times a drug patch was rejected by the  
8 laboratory and the reason why;

9 4.26.8 Number of drug patches applied at each service location;  
10 and

11 4.26.9 Number of positive and negative test results posted to  
12 the laboratory's website.

13 4.27 SSA may present or sponsor training and require CONTRACTOR to  
14 attend.

15 5. LICENSES AND STANDARDS

16 5.1 CONTRACTOR warrants that it has all necessary licenses and permits  
17 required by the laws of the United States, State of California, County of  
18 Orange and all other appropriate governmental agencies to perform the services  
19 described in this Agreement, and agrees to maintain these licenses and permits  
20 in effect for the duration of this Agreement. Further, CONTRACTOR warrants  
21 that its employees shall conduct themselves in compliance with such laws and  
22 licensure requirements including, without limitation, compliance with laws  
23 applicable to sexual harassment and ethical behavior.

24 5.2 In the performance of this Agreement, CONTRACTOR shall comply,  
25 unless waived in whole or in part by ADMINISTRATOR, with all applicable  
26 provisions of the California Welfare and Institutions Code (WIC); Title 45 of  
27 the Code of Federal Regulations (CFR); implementing regulations under 2 CFR  
28 Part 200, Uniform Administrative Requirements, Cost Principles, and Audit

1 Requirements for Federal Awards; Title 48 CFR Section 31.2; and all applicable  
2 laws and regulations of the United States, State of California, County of  
3 Orange Social Services Agency and all administrative regulations, rules and  
4 policies adopted thereunder as each and all may now exist or be hereafter  
5 amended.

6 5.2.1 For Federally funded Agreements in the amount of \$25,000  
7 or more, CONTRACTOR certifies that its officers and/or principals are not  
8 debarred or suspended from Federal financial assistance programs and/or  
9 activities.

10 6. DELEGATION AND ASSIGNMENT/SUBCONTRACTS

11 6.1 Delegation and Assignment:

12 In the performance of this Agreement, CONTRACTOR may neither  
13 delegate its duties or obligations nor assign its rights, either in whole or  
14 in part, without the prior written consent of COUNTY. Any attempted  
15 delegation or assignment without prior written consent shall be void. The  
16 transfer of assets in excess of ten percent (10%) of the total assets of  
17 CONTRACTOR, or any change in the corporate structure, the governing body, or  
18 the management of CONTRACTOR, which occurs as a result of such transfer, shall  
19 be deemed an assignment of benefits under the terms of this Agreement  
20 requiring COUNTY approval.

21 6.2 Subcontracts:

22 CONTRACTOR shall not subcontract for services under this Agreement  
23 without the prior written consent of ADMINISTRATOR. If ADMINISTRATOR consents  
24 in writing to a subcontract, in no event shall the subcontract alter, in any  
25 way, any legal responsibility of CONTRACTOR to COUNTY. All subcontracts must  
26 be in writing and copies of same shall be provided to ADMINISTRATOR.  
27 CONTRACTOR shall include in each subcontract any provision ADMINISTRATOR may  
28 require.

1           7.    FORM OF BUSINESS ORGANIZATION AND REAL PROPERTY DISCLOSURE

2               7.1   Form of Business Organization:

3               Upon the request of ADMINISTRATOR, CONTRACTOR shall prepare and  
4 submit, within thirty (30) days thereafter, an affidavit executed by persons  
5 satisfactory to ADMINISTRATOR containing, but not limited to, the following  
6 information:

7                   7.1.1   The form of CONTRACTOR's business organization, i.e.,  
8 proprietorship, partnership, corporation, etc.

9                   7.1.2   A detailed statement indicating the relationship of  
10 CONTRACTOR, by way of ownership or otherwise, to any parent organization or  
11 individual.

12                  7.1.3   A detailed statement indicating the relationship of  
13 CONTRACTOR to any subsidiary business organization or to any individual who  
14 may be providing services, supplies, material or equipment to CONTRACTOR or in  
15 any manner does business with CONTRACTOR under this Agreement.

16               7.2   Change in Form of Business Organization:

17               If during the term of this Agreement the form of CONTRACTOR's  
18 business organization changes, or the ownership of CONTRACTOR changes, or  
19 CONTRACTOR's relationship to other businesses dealing with CONTRACTOR under  
20 this Agreement changes, CONTRACTOR shall promptly notify ADMINISTRATOR, in  
21 writing, detailing such changes. A change in the form of business  
22 organization may, at COUNTY's sole discretion, be treated as an attempted  
23 assignment of rights or delegation of duties of this Agreement.

24           8.    NON-DISCRIMINATION

25               8.1   In the performance of this Agreement, CONTRACTOR agrees that it  
26 shall not engage nor employ any unlawful discriminatory practices in the  
27 admission of clients, provision of services or benefits, assignment of  
28 accommodations, treatment, evaluation, employment of personnel or in any other

1 respect on the basis of race, religious creed, color, national origin,  
2 ancestry, physical disability, mental disability, medical condition, genetic  
3 information, marital status, sex, gender, gender identity, gender expression,  
4 age, sexual orientation, military and veteran status or any other protected  
5 group in accordance with the requirements of all applicable Federal or State  
6 laws.

7 8.2 CONTRACTOR shall develop an Affirmative Action Program Plan which  
8 meets the lawful and applicable requirements of the U.S. Department of Health  
9 and Human Services.

10 8.3 CONTRACTOR shall furnish any and all information requested by  
11 ADMINISTRATOR and shall permit ADMINISTRATOR access, during business hours, to  
12 books, records and accounts in order to ascertain CONTRACTOR's compliance with  
13 Paragraph 8 et seq.

14 8.4 CONTRACTOR shall comply with Executive Order 11246, entitled  
15 "Equal Employment Opportunity," as amended by Executive Order 11375 and as  
16 supplemented in Department of Labor regulations (Title 41 CFR Part 60).

17 8.5 Non-Discrimination in Employment:

18 8.5.1 All solicitations or advertisements for employees placed  
19 by or on behalf of CONTRACTOR shall state that all qualified applicants will  
20 receive consideration for employment without regard to race, religious creed,  
21 color, national origin, ancestry, physical disability, mental disability,  
22 medical condition, genetic information, marital status, sex, gender, gender  
23 identity, gender expression, age, sexual orientation, military and veteran  
24 status or any other protected group in accordance with the requirements of all  
25 applicable Federal or State laws. Notices describing the provisions of the  
26 equal opportunity clause shall be posted in a conspicuous place for employees  
27 and job applicants.

28 8.5.2 CONTRACTOR shall refer any and all employees desirous of

1 filing a formal discrimination complaint to:

2 California Department of Social Services

3 Public Inquiry and Response Bureau

4 P.O. Box 944243, M.S. 8-43-23

5 Sacramento, CA 95814~~94244-2430~~

6 Telephone: (800) 952-5253

7 (800) 952-8349 (For the hard of hearing)

8 8.6 Non-Discrimination in Service Delivery:

9 8.6.1 CONTRACTOR shall comply with Titles VI and VII of the  
 10 Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of  
 11 1973, as amended; the Age Discrimination Act of 1975, as amended; the Food  
 12 Stamp Act of 1977, as amended, and in particular 7 CFR ~~S~~ Section 272.6; Title  
 13 II of the Americans with Disabilities Act of 1990, as amended; California  
 14 Civil Code Section 51 et seq., as amended; California Government Code (CGC)  
 15 Sections 11135-11139.5, as amended; CGC Section 12940 (c), (h)~~(1)~~, (i), and  
 16 (j); CGC Section 4450; Title 22, California Code of Regulations (CCR) Sections  
 17 98000-98413; ~~Title 24, CCR Section 3105A(e)~~; the Dymally-Alatorre Bilingual  
 18 Services Act (CGC Section 7290-7299.8); Section 1808 of the Removal of  
 19 Barriers to Interethnic Adoption Act of 1996; and other applicable Federal and  
 20 State laws, as well as their implementing regulations (including Title 45 CFR  
 21 Parts 80, 84, and 91; Title 7 CFR Part 15; and Title 28 CFR Part 42), and any  
 22 other law pertaining to Equal Employment Opportunity, Affirmative Action and  
 23 Nondiscrimination as each may now exist or be hereafter amended. CONTRACTOR  
 24 shall not implement any administrative methods or procedures which would have  
 25 a discriminatory effect or which would violate the California Department of  
 26 Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 21,  
 27 Chapter 21-100. If there are any violations of this Paragraph, CDSS shall  
 28 have the right to invoke fiscal sanctions or other legal remedies in

1 accordance with WIC Section 10605, or CGC Sections 11135-11139.5, or any other  
2 laws, or the issue may be referred to the appropriate Federal agency for  
3 further compliance action and enforcement of Subparagraph 8.6 et seq.

4 8.6.2 CONTRACTOR shall provide any and all clients desirous of  
5 filing a formal complaint any and all information as appropriate:

6 8.6.2.1 Pamphlet: "Your Rights Under California  
7 Welfare Programs" (PUB 13)

8 8.6.2.2 Discrimination Complaint Form

9 8.6.2.3 Civil Rights Contacts:

10 County Civil Rights Contact:

11 Orange County Social Services Agency

12 Program Integrity

13 Attn: Civil Rights Coordinator

14 P.O. Box 22001

15 Santa Ana, CA 92702-2001

16 Telephone: (714) 438-8877

17 State Civil Rights Contact:

18 California Department of Social Services

19 Civil Rights Bureau

20 P.O. Box 944243, M.S. 15-70

21 Sacramento, CA 94244-2430

22 Federal Civil Rights Contact:

23 U.S. Department of Health and Human Services

24 Office of Civil Rights

25 50 U.N. Plaza, Room 322

26 San Francisco, CA 94102

27 9. NOTICES

28 9.1 All notices, claims, correspondence, reports, and/or statements

1 authorized or required by this Agreement shall be addressed as follows:

2 COUNTY: County of Orange Social Services Agency  
3 Contract Services  
4 500 N. State College Blvd., Suite 100  
5 Orange, CA 92868  
6

7 CONTRACTOR:  
8

9 9.2 All notices shall be deemed effective when in writing and  
10 deposited in the United States mail, first class, postage prepaid and  
11 addressed as above. Any notices, claims, correspondence, reports and/or  
12 statements authorized or required by this Agreement addressed in any other  
13 fashion shall be deemed not given. ADMINISTRATOR and CONTRACTOR may mutually  
14 agree in writing to change the addresses to which notices are sent.

15 10. NOTICE OF DELAYS

16 Except as otherwise provided under this Agreement, when either party has  
17 knowledge that any actual or potential situation is delaying or threatens to  
18 delay the timely performance of this Agreement, that party shall, within one  
19 (1) business day, give notice thereof, including all relevant information with  
20 respect thereto, to the other party.

21 11. INDEMNIFICATION

22 11.1 CONTRACTOR agrees to indemnify, defend with counsel approved in  
23 writing by COUNTY, and hold U.S. Department of Health and Human Services, the  
24 State, COUNTY, and their elected and appointed officials, officers, employees,  
25 agents and those special districts and agencies which COUNTY's Board of  
26 Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from  
27 any claims, demands or liability of any kind or nature, including but not  
28 limited to personal injury or property damage, arising from or related to the

1 services, products or other performance provided by CONTRACTOR pursuant to  
2 this Agreement. If judgment is entered against CONTRACTOR and COUNTY by a  
3 court of competent jurisdiction because of the concurrent active negligence of  
4 COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that liability will  
5 be apportioned as determined by the court. Neither party shall request a jury  
6 apportionment.

7 12. INSURANCE

8 12.1 Prior to the provision of services under this Agreement,  
9 CONTRACTOR agrees to purchase all required insurance at CONTRACTOR's expense  
10 and to deposit with ADMINISTRATOR Certificates of Insurance, including all  
11 endorsements required herein, necessary to satisfy COUNTY that the insurance  
12 provisions of this Agreement have been complied with, and to keep such  
13 insurance coverage and the certificates therefore on deposit with  
14 ADMINISTRATOR during the entire term of this Agreement. CONTRACTOR shall  
15 ensure that all subcontractors performing work on behalf of Contractor  
16 pursuant to this agreement shall be covered under Contractor's insurance as an  
17 Additional Insured or maintain insurance subject to the same terms and  
18 conditions as set forth herein for Contractor. Contractor shall not allow  
19 subcontractors to work if subcontractors have less than the level of coverage  
20 required by County from Contractor under this agreement. It is the obligation  
21 of Contractor to provide notice of the insurance requirements to every  
22 subcontractor and to receive proof of insurance prior to allowing any  
23 subcontractor to begin work. Such proof of insurance must be maintained by  
24 Contractor through the entirety of this agreement for inspection by County  
25 representative(s) at any reasonable time.

26 12.2 CONTRACTOR shall ensure that all subcontractors performing work on  
27 behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance subject  
28 to the same terms and conditions as set forth herein for CONTRACTOR.



12.3 All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management upon review of CONTRACTOR's current audited financial report.

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

12.5 Qualified Insurer:

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

12.6 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 rating.

12.7 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
Workers' Compensation	Statutory
Employer's Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made

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12.8 Required Coverage Forms:

12.8.1 Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

12.9 Required Endorsements:

12.9.1 Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

12.9.1.1 An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.

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

12.9.2 The Network Security and Privacy Liability policy shall contain the following:

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

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

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

1 their appointment or employment.

2 12.11 CONTRACTOR shall notify County in writing within thirty (30) days  
3 of any policy cancellation and ten (10) days for non-payment of premium and  
4 provide a copy of the cancellation notice to County. Failure to provide  
5 written notice of cancellation may constitute a material breach of the  
6 contract, upon which the County may suspend or terminate this Agreement.

7 12.12 The Commercial General Liability policy shall contain a  
8 severability of interests clause also known as a "separation of insureds"  
9 clause (standard in the ISO CG 0001 policy).

10 12.13 Insurance certificates should be mailed to COUNTY at the address  
11 indicated in Paragraph 9 of this Agreement.

12 12.14 If CONTRACTOR fails to provide the insurance certificates and  
13 endorsements within seven (7) days of notification by CEO/County Procurement  
14 Office or ADMINISTRATOR, award may be made to the next qualified proponent.

15 12.15 COUNTY expressly retains the right to require CONTRACTOR to  
16 increase or decrease insurance of any of the above insurance types throughout  
17 the term of this Agreement. Any increase or decrease in insurance will be as  
18 deemed by County of Orange Risk Manager as appropriate to adequately protect  
19 COUNTY.

20 12.16 COUNTY shall notify CONTRACTOR in writing of changes in the  
21 insurance requirements. If CONTRACTOR does not deposit copies of acceptable  
22 certificates of insurance and endorsements with COUNTY incorporating such  
23 changes within thirty (30) days of receipt of such notice, this Agreement may  
24 be in breach without further notice to CONTRACTOR, and COUNTY shall be  
25 entitled to all legal remedies.

26 12.17 The procuring of such required policy or policies of insurance  
27 shall not be construed to limit CONTRACTOR's liability hereunder nor to  
28 fulfill the indemnification provisions and requirements of this Agreement, nor

1 act in any way to reduce the policy coverage and limits available from the  
2 insurer.

3 13. NOTIFICATION OF INCIDENTS, CLAIMS OR SUITS

4 CONTRACTOR shall report to COUNTY:

5 13.1 Any accident or incident relating to services performed under this  
6 Agreement which involves injury or property damage which may result in the  
7 filing of a claim or lawsuit against CONTRACTOR and/or COUNTY. Such report  
8 shall be made in writing within twenty-four (24) hours of occurrence.

9 13.2 Any third party claim or lawsuit filed against CONTRACTOR arising  
10 from or related to services performed by CONTRACTOR under this Agreement.  
11 Such report shall be submitted to COUNTY within twenty-four (24) hours of  
12 occurrence.

13 13.3 Any injury to an employee of CONTRACTOR that occurs on COUNTY  
14 property. Such report shall be submitted to COUNTY within twenty-four (24)  
15 hours of occurrence.

16 13.4 Any loss, disappearance, destruction, misuse, or theft of any kind  
17 whatsoever of COUNTY property, monies, or securities entrusted to CONTRACTOR  
18 under the term of this Agreement. Such report shall be submitted to COUNTY  
19 within twenty-four (24) hours of occurrence.

20 14. CONFLICT OF INTEREST

21 14.1 CONTRACTOR shall exercise reasonable care and diligence to prevent  
22 any actions or conditions that could result in a conflict with the best  
23 interests of COUNTY. This obligation shall apply to CONTRACTOR's employees,  
24 agents, relatives, subcontractors, and third parties associated with  
25 accomplishing the work hereunder.

26 14.2 CONTRACTOR's efforts shall include, but not be limited to,  
27 establishing precautions to prevent its employees or agents from making,  
28 receiving, providing, or offering gifts, entertainment, payments, loans, or

1 other considerations which could be deemed to appear to influence individuals  
2 to act contrary to the best interests of COUNTY.

3 15. ANTI-PROSELYTISM PROVISION

4 No funds provided directly to institutions or organizations to provide  
5 services and administer programs under Title 42 United States Code (USC)  
6 Section 604(a)(1)(A) shall be expended for sectarian worship, instruction, or  
7 proselytization, except as otherwise permitted by law.

8 16. SUPPLANTING GOVERNMENT FUNDS

9 CONTRACTOR shall not supplant any Federal, State or COUNTY funds  
10 intended for the purposes of this Agreement with any funds made available  
11 under this Agreement. CONTRACTOR shall not claim payment from COUNTY for, or  
12 apply sums received from COUNTY with respect to, that portion of its  
13 obligations which have been paid by another source of revenue. CONTRACTOR  
14 agrees that it shall not use funds received pursuant to this Agreement, either  
15 directly or indirectly, as a contribution or compensation for purposes of  
16 obtaining Federal, State or COUNTY funds under any Federal, State or COUNTY  
17 program without prior written approval of ADMINISTRATOR.

18 17. BREACH SANCTIONS

19 Failure by CONTRACTOR to comply with any of the provisions, covenants,  
20 or conditions of this Agreement shall be a material breach of this Agreement.  
21 In such event, ADMINISTRATOR may, and in addition to immediate termination and  
22 any other remedies available at law, in equity, or otherwise specified in this  
23 Agreement:

24 17.1 Afford CONTRACTOR a time period within which to cure the breach,  
25 which period shall be established by ADMINISTRATOR; and/or

26 17.2 Discontinue reimbursement to CONTRACTOR for and during the period  
27 in which CONTRACTOR is in breach, which reimbursement shall not be entitled to  
28 later recovery; and/or

1 17.3 Offset against any monies billed by CONTRACTOR but yet unpaid by  
2 COUNTY those monies disallowed pursuant to Subparagraph 17.2 above.

3 ADMINISTRATOR will give CONTRACTOR written notice of any action pursuant  
4 to this Paragraph, which notice shall be deemed served on the date of mailing.

5 18. PAYMENTS

6 18.1 Allowable Costs and Usage:

7 During the term of this Agreement, COUNTY shall pay CONTRACTOR  
8 monthly in arrears. No guarantee is given by COUNTY to CONTRACTOR regarding  
9 usage of this Agreement. CONTRACTOR agrees to supply the services at the unit  
10 price listed stated in Subparagraphs 18.1.1 through 18.1.3 of this Agreement,  
11 regardless of the number of referrals from COUNTY.

12 18.1.1 For the period of July 1, 2016 through June 30, 2017,  
13 COUNTY shall pay CONTRACTOR, monthly in arrears, a rate of ~~\$50.00~~ \$52.00 per  
14 patch applied with a Pharmchek® Overlay, removed, submitted for analysis, and  
15 reported on the laboratory's website.

16 18.1.2 For the period of July 1, 2017 through June 30, 2018,  
17 COUNTY shall pay CONTRACTOR, monthly in arrears, a rate of ~~\$51.00~~ \$53.00 per  
18 patch applied with a Pharmchek® Overlay, removed, submitted for analysis, and  
19 reported on the laboratory's website.

20 18.1.3 For the period of July 1, 2018 through June 30, 2019,  
21 COUNTY shall pay CONTRACTOR, monthly in arrears, a rate of ~~\$52.00~~ \$54.00 per  
22 patch applied with a Pharmchek® Overlay, removed, submitted for analysis, and  
23 reported on the laboratory's website.

24 18.2 No payments will be made for the following:

25 18.2.1 Program development prior to or after Agreement  
26 implementation, including costs for preparation of invoices and/or monthly  
27 statistical reports.

28 18.2.2 Administrative and personnel costs.

1 18.2.3 Materials to complete drug patch testing, including but  
2 not limited to the drug patch, chain-of-custody forms, alcohol wipes, specimen  
3 bags, single-use plastic tweezers, disposable plastic gloves, transport bags,  
4 mailers and postage fee.

5 18.2.4 Drug patches applied but not removed due to client's  
6 failure to return for patch removal.

7 18.2.5 Drug patches applied and removed but not received by the  
8 laboratory due to being lost en route to the laboratory.

9 18.2.6 Drug patches applied but not removed within a maximum of  
10 ten (10) calendar days, regardless of the reason the patch was not removed.

11 18.2.7 Drug patches received by the laboratory for testing but  
12 rejected for testing by the laboratory due to an observed irregularity (i.e.,  
13 fatal flaw in chain-of-custody procedure, improper sealing of the seal on the  
14 specimen bag, missing signature of either the collector or the donor, etc.).

15 18.2.8 Preparation, participation, or other activities related  
16 to Utilization Reviews.

17 18.2.9 Time spent in Orange County Juvenile Court pursuant to a  
18 subpoena.

19 18.3 Any fee other than the fees referenced in Subparagraphs 18.1.1  
20 through 18.1.3.

21 18.4 Claims:

22 18.4.1 CONTRACTOR shall submit monthly claims to be received by  
23 ADMINISTRATOR no later than the twentieth (20<sup>th</sup>) calendar day of the month for  
24 expenses incurred in the preceding month. In the event the twentieth (20<sup>th</sup>)  
25 calendar day falls on a weekend or COUNTY holiday, CONTRACTOR shall submit the  
26 claim the next business day. COUNTY holidays include New Year's Day, Martin  
27 Luther King Day, President Lincoln's Birthday, Presidents' Day, Memorial Day,  
28 Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day,

1 Friday after Thanksgiving, and Christmas Day.

2 18.4.2 All claims must be submitted on a form approved by  
3 ADMINISTRATOR. ADMINISTRATOR may require CONTRACTOR to submit supporting  
4 source documents with the monthly claim, including, inter alia, a monthly  
5 statement of services, general ledgers, supporting journals, time sheets,  
6 invoices, canceled checks, receipts, and receiving records, some of which may  
7 be required to be copied. Source documents that CONTRACTOR must submit shall  
8 be determined by ADMINISTRATOR and/or COUNTY's Auditor-Controller. CONTRACTOR  
9 shall retain all financial records in accordance with Paragraph 22 (Records,  
10 Inspections, and Audits) of this Agreement.

11 18.4.3 Payments should be released by COUNTY within a reasonable  
12 time period of approximately thirty (30) days after receipt of a correctly  
13 completed claim form and required supporting documentation.

14 18.4.4 Year End and Final Claims:

15 18.4.4.1 During each COUNTY fiscal year, July 1  
16 through June 30, covered under the term of this Agreement, COUNTY may  
17 establish two (2) billing periods (June 1<sup>st</sup> through June 15<sup>th</sup> and June 16<sup>th</sup>  
18 through June 30<sup>th</sup>) for the month of June which shall require CONTRACTOR submit  
19 separate invoice claims for each billing period. In the event COUNTY  
20 determines a need for two (2) billing periods during any or all COUNTY fiscal  
21 years, COUNTY will provide written notification to CONTRACTOR by the 15<sup>th</sup> of  
22 May of each corresponding fiscal year, which will inform CONTRACTOR of  
23 applicable invoice claim deadlines.

24 18.4.4.2 CONTRACTOR shall submit a final claim for  
25 each COUNTY fiscal year, July 1 through June 30, covered under the term of  
26 this Agreement as stated in Paragraph 1, by no later than August 30<sup>th</sup> of each  
27 corresponding COUNTY fiscal year. Claims received after August 30<sup>th</sup> of each  
28 corresponding COUNTY fiscal year may, at ADMINISTRATOR's sole discretion, not



1 be reimbursed. ADMINISTRATOR may modify the date upon which the final claim  
2 per each COUNTY fiscal year must be received, upon written notice to  
3 CONTRACTOR.

4 18.4.4.3 The basis for final settlement shall be the  
5 actual allowable costs as defined in Title 45 CFR and ~~OMB Circular A-122, 2~~  
6 ~~CFR, Part 230, incurred and paid by CONTRACTOR pursuant to this Agreement;~~  
7 incurred and paid by CONTRACTOR pursuant to this Agreement; limited, however,  
8 to the maximum obligation of COUNTY. In the event that any overpayment has  
9 been made, COUNTY may offset the amount of the overpayment against the final  
10 payment. In the event overpayment exceeds the final payment, CONTRACTOR shall  
11 pay COUNTY all such sums within five (5) business days of notice from COUNTY.  
12 Nothing herein shall be construed as limiting the remedies of COUNTY in the  
13 event an overpayment has been made.

14 19. OVERPAYMENTS

15 Any payment(s) made by COUNTY to CONTRACTOR in excess of that to which  
16 CONTRACTOR is entitled under this Agreement shall be repaid to COUNTY, in  
17 accordance with any applicable regulations and/or policies in effect during  
18 the term of this Agreement, or as established by COUNTY procedure. Any  
19 overpayments made by COUNTY which result from a payment by any other funding  
20 source shall be repaid, at the discretion of ADMINISTRATOR, to COUNTY or the  
21 funding source. Unless earlier repaid, CONTRACTOR shall make repayment within  
22 thirty (30) days after the date of the final audit findings report and prior  
23 to any administrative appeal process. In the event an overpayment owing by  
24 CONTRACTOR is collected from COUNTY by the funding source, then CONTRACTOR  
25 shall reimburse COUNTY within thirty (30) days thereafter and prior to any  
26 administrative appeal process. CONTRACTOR agrees to pay all costs incurred by  
27 COUNTY necessary to enforce the provisions set forth in this Paragraph.

28 20. OUTSTANDING DEBT

1 CONTRACTOR shall have no outstanding debt with ADMINISTRATOR, or shall  
2 be in the process of resolving outstanding debt to ADMINISTRATOR's  
3 satisfaction, prior to entering into and during the term of this Agreement.

4 21. FINAL REPORT

5 CONTRACTOR shall complete and submit to ADMINISTRATOR a final report  
6 within sixty (60) days after the termination of this Agreement, which shall  
7 summarize the activities and services provided by CONTRACTOR during the term  
8 of this Agreement. CONTRACTOR and ADMINISTRATOR may mutually agree in writing  
9 to modify the date upon which the final report must be submitted.

10 22. RECORDS, INSPECTIONS AND AUDITS

11 22.1 Financial Records:

12 22.1.1 CONTRACTOR shall prepare and maintain accurate and  
13 complete financial records. Financial records shall be retained, by  
14 CONTRACTOR, for a minimum of five (5) years from the date of final payment  
15 under this Agreement or until all pending COUNTY, State and Federal audits are  
16 completed, whichever is later.

17 22.1.2 CONTRACTOR shall establish and maintain reasonable  
18 accounting, internal control and financial reporting standards in conformity  
19 with generally accepted accounting principles established by the American  
20 Institute of Certified Public Accountants and to the satisfaction of  
21 ADMINISTRATOR.

22 22.2 Client Records:

23 22.2.1 CONTRACTOR shall prepare and maintain accurate and  
24 complete records of clients served and dates and type of services provided  
25 under the terms of this Agreement in a form acceptable to ADMINISTRATOR.

26 22.2.2 All client records related to services provided under the  
27 terms of this Agreement shall be retained by CONTRACTOR for a minimum of five  
28 (5) years from the date of final payment under this Agreement or until all

1 pending COUNTY, State and Federal audits are completed, whichever is later.  
2 Notwithstanding anything to the contrary, upon termination of this Agreement,  
3 CONTRACTOR shall relinquish control with respect to client records to COUNTY  
4 in accordance with Subparagraph 39.2.

5 22.2.3 COUNTY may refuse payment for a claim if client records  
6 are determined by COUNTY to be incomplete or inaccurate. In the event client  
7 records are determined to be incomplete or inaccurate after payment has been  
8 made, COUNTY may treat such payment as an overpayment within the provisions of  
9 this Agreement.

10 22.3 Public Records:

11 With the exception of client records or other records referenced  
12 in Paragraph 28, entitled Confidentiality, all records, including but not  
13 limited to, reports, audits, notices, claims, statements and correspondence,  
14 required by this Agreement may be subject to public disclosure. COUNTY will  
15 not be liable for any such disclosure.

16 22.4 Inspections and Audits:

17 22.4.1 The U.S. Department of Health and Human Services,  
18 Comptroller General of the United States, Director of CDSS, State Auditor-  
19 General, ADMINISTRATOR, COUNTY's Auditor-Controller and Internal Audit  
20 Department, or any of their authorized representatives, shall have access to  
21 any books, documents, papers and records, including medical records, of  
22 CONTRACTOR which any of them may determine to be pertinent to this Agreement  
23 for the purpose of financial monitoring. Further, all the above mentioned  
24 persons have the right at all reasonable times to inspect or otherwise  
25 evaluate the work performed or being performed under this Agreement and the  
26 premises in which it is being performed.

27 22.4.2 CONTRACTOR shall make its books and financial records  
28 available within the borders of Orange County within ten (10) days of receipt

1 of written demand by ADMINISTRATOR.

2 22.4.3 In the event CONTRACTOR does not make available its books  
3 and financial records within the borders of Orange County, CONTRACTOR agrees  
4 to pay all necessary and reasonable expenses incurred by COUNTY, or COUNTY's  
5 designee, necessary to obtain CONTRACTOR's books and financial records.

6 22.4.4 CONTRACTOR shall pay to COUNTY the full amount of  
7 COUNTY's liability to the State or Federal government or any agency thereof  
8 resulting from any disallowances or other audit exceptions to the extent that  
9 such liability is attributable to CONTRACTOR's failure to perform under this  
10 Agreement.

11 22.5 Evaluation Studies:

12 22.5.1 CONTRACTOR shall participate as requested by COUNTY in  
13 research and/or evaluative studies designed to show the effectiveness and/or  
14 efficiency of CONTRACTOR's services or provide information about CONTRACTOR's  
15 project.

16 23. PERSONNEL DISCLOSURE

17 23.1 CONTRACTOR shall make available to ADMINISTRATOR a current list of  
18 all personnel providing services hereunder, including résumés and job  
19 applications. Changes to the list will be immediately provided to  
20 ADMINISTRATOR in writing, along with a copy of a résumé and/or job  
21 application. The list shall include:

22 23.1.1 Names and dates of birth of all full or part-time  
23 personnel by title, including volunteer personnel, whose direct services are  
24 required to provide the programs described herein;

25 23.1.2 A brief description of the functions of each position and  
26 the hours each person works each week; or for part-time personnel, each day or  
27 month, as appropriate;

28 23.1.3 The professional degree, if applicable, and experience

1 required for each position; and

2 23.1.4 The language skill, if applicable, for all personnel.

3 23.2 Where authorized by law, CONTRACTOR's employment applications  
4 shall require applicants to provide detailed information regarding the  
5 conviction of a crime by any court, for offenses other than minor traffic  
6 offenses. Information not disclosed in the employment application discovered  
7 subsequent to the hiring or promotion of any applicant shall be cause for  
8 termination of that employee from the performance of services under this  
9 Agreement.

10 23.3 Where authorized by law, CONTRACTOR shall conduct, at no cost to  
11 COUNTY, a clearance on the following public websites the names and dates of  
12 birth for all employees and/or volunteers who will have direct, interactive  
13 contact with clients served through this Agreement: U.S. Department of  
14 Justice National Sex Offender Website ([www.nsopw.gov](http://www.nsopw.gov)) and Megan's Law Sex  
15 Offender Registry ([www.meganslaw.ca.gov](http://www.meganslaw.ca.gov)).

16 23.4 Where authorized by law, CONTRACTOR shall conduct, at no cost to  
17 COUNTY, a criminal record background check on all employees (direct service  
18 and administrative) funded through this Agreement and also all non-funded  
19 staff (e.g., volunteers, in-kind staff, etc.) who will have direct,  
20 interactive contact with clients served through this Agreement. Background  
21 checks conducted through the California Department of Justice shall include a  
22 check of the California Central Child Abuse Index, when applicable.  
23 Candidates will satisfy background checks consistent with this Paragraph and  
24 their performance of services under this Agreement.

25 23.5 In the event a record is revealed through the processes described  
26 in Subparagraphs 23.3 and 23.4, COUNTY will be available to consult with  
27 CONTRACTOR on appropriateness of personnel providing services through this  
28 Agreement.

1           23.6 CONTRACTOR warrants that all persons employed or otherwise  
2 assigned by CONTRACTOR to provide services under this Agreement have  
3 satisfactory past work records and/or reference checks indicating their  
4 ability to perform the required duties and accept the kind of responsibility  
5 anticipated under this Agreement. CONTRACTOR shall maintain records of  
6 background investigations and reference checks undertaken and coordinated by  
7 CONTRACTOR for each employee and/or volunteer assigned to provide services  
8 under this Agreement for a minimum of five (5) years from the date of final  
9 payment under this Agreement or until all pending COUNTY, State and Federal  
10 audits are completed, whichever is later, in compliance with all applicable  
11 laws.

12           23.7 CONTRACTOR shall immediately notify ADMINISTRATOR concerning the  
13 arrest and/or subsequent conviction, for offenses other than minor traffic  
14 offenses, of any paid employee and/or volunteer staff performing services  
15 under this Agreement, when such information becomes known to CONTRACTOR.  
16 ADMINISTRATOR may determine whether such employee and/or volunteer may  
17 continue to provide services under this Agreement and shall provide notice of  
18 such determination to CONTRACTOR in writing. CONTRACTOR's failure to comply  
19 with ADMINISTRATOR's decision shall be deemed a material breach of this  
20 Agreement, pursuant to Paragraph 17 above.

21           23.8 COUNTY has the right to approve or disapprove all of CONTRACTOR's  
22 staff performing work hereunder and any proposed changes in CONTRACTOR's  
23 staff.

24           23.9 COUNTY shall have the right to require CONTRACTOR to remove any  
25 employee from the performance of services under this Agreement. At the  
26 request of COUNTY, CONTRACTOR shall immediately replace said personnel.

27           23.10 CONTRACTOR shall notify COUNTY immediately when staff is  
28 terminated for cause from working on this Agreement.

1 23.11 Disqualification, if any, of CONTRACTOR staff, pursuant to  
2 Paragraph 23, shall not relieve CONTRACTOR of its obligation to complete all  
3 work in accordance with the terms and conditions of this Agreement.

4 24. EMPLOYMENT ELIGIBILITY VERIFICATION

5 As applicable, CONTRACTOR warrants that it fully complies with all  
6 Federal and State statutes and regulations regarding the employment of aliens  
7 and others, and that all its employees performing work under this Agreement  
8 meet the citizenship or alien status requirement set forth in Federal statutes  
9 and regulations. CONTRACTOR shall obtain, from all employees performing work  
10 hereunder, all verification and other documentation of employment eligibility  
11 status required by Federal or State statutes and regulations including, but  
12 not limited to, the Immigration Reform and Control Act of 1986, Title 8 USC  
13 Section 1324 et seq., as they currently exist and as they may be hereafter  
14 amended. CONTRACTOR shall retain all such documentation for all covered  
15 employees for the period prescribed by the law. CONTRACTOR shall indemnify,  
16 defend with counsel approved in writing by COUNTY, and hold harmless, COUNTY,  
17 its agents, officers, and employees from employer sanctions and any other  
18 liability which may be assessed against CONTRACTOR or COUNTY or both in  
19 connection with any alleged violation of any Federal or State statutes or  
20 regulations pertaining to the eligibility for employment of any persons  
21 performing work under this Agreement.

22 25. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

23 25.1 In order to comply with child support enforcement requirements of  
24 COUNTY, CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) days  
25 of the award of this Agreement:

- 26 (a) in the case of an individual contractor, his/her name, date of  
27 birth, Social Security number, and residence address;

1 (b) in the case of a contractor doing business in a form other than as  
2 an individual, the name, date of birth, Social Security number,  
3 and residence address of each individual who owns an interest of  
4 ten percent (10%) or more in the contracting entity;

5 (c) a certification that CONTRACTOR has fully complied with all  
6 applicable Federal and State reporting requirements regarding its  
7 employees; and

8 (d) a certification that CONTRACTOR has fully complied with all  
9 lawfully served Wage and Earnings Assignment Orders and Notices of  
10 Assignment, and will continue to so comply.

11 25.2 The failure of CONTRACTOR to timely submit the data or  
12 certifications required by subsections (a), (b), (c), or (d), or to comply  
13 with all Federal and State employee reporting requirements for child support  
14 enforcement or to comply with all lawfully served Wage and Earnings Assignment  
15 Orders and Notices of Assignment shall constitute a material breach of this  
16 Agreement, and failure to cure such breach within sixty (60) calendar days of  
17 notice from COUNTY shall constitute grounds for termination of this Agreement.

18 25.3 It is expressly understood that this data will be transmitted to  
19 governmental agencies charged with the establishment and enforcement of child  
20 support orders, and for no other purpose.

21 26. CHILD AND DEPENDENT ADULT/ELDER ABUSE REPORTING

22 CONTRACTOR shall establish a procedure acceptable to ADMINISTRATOR to  
23 ensure that all employees, volunteers, consultants, or agents performing  
24 services under this Agreement report child abuse or neglect to one of the  
25 agencies specified in Penal Code Section 11165.9 and dependent adult or elder  
26 abuse as defined in Section 15610.07 of the WIC to one of the agencies  
27 specified in WIC Section 15630. CONTRACTOR shall require such employee,  
28 volunteer, consultant or agent to sign a statement acknowledging the child



1 abuse reporting requirements set forth in Sections 11166 and 11166.05 of the  
2 Penal Code and the dependent adult and elder abuse reporting requirements as  
3 set forth in Section 15630 of the WIC and will comply with the provisions of  
4 these code sections as they now exist or as they may hereafter be amended.

5 27. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

6 CONTRACTOR shall notify and provide to its employees, a fact sheet  
7 regarding the Safely Surrendered Baby Law, its implementation in Orange  
8 County, and where and how to safely surrender a baby. The fact sheet is  
9 available on the Internet at [www.babysafe.ca.gov](http://www.babysafe.ca.gov) for printing purposes. The  
10 information shall be posted in all reception areas where clients are served.

11 28. CONFIDENTIALITY

12 28.1 CONTRACTOR agrees to maintain the confidentiality of its records  
13 pursuant to WIC Sections 827 and 10850-10853, the CDSS MPP, Division 19-000,  
14 and all other provisions of law, and regulations promulgated thereunder  
15 relating to privacy and confidentiality, as each may now exist or be hereafter  
16 amended.

17 28.2 All records and information concerning any and all persons  
18 referred to CONTRACTOR by COUNTY or COUNTY's designee shall be considered and  
19 kept confidential by CONTRACTOR, CONTRACTOR's staff, agents, employees and  
20 volunteers. CONTRACTOR shall require all of its employees, agents,  
21 subcontractors and volunteer staff who may provide services for CONTRACTOR  
22 under this Agreement to sign an agreement with CONTRACTOR before commencing  
23 the provision of any such services, to maintain the confidentiality of any and  
24 all materials and information with which they may come into contact, or the  
25 identities or any identifying characteristics or information with respect to  
26 any and all participants referred to CONTRACTOR by COUNTY, except as may be  
27 required to provide services under this Agreement or to those specified in  
28 this Agreement as having the capacity to audit CONTRACTOR, and as to the

1 latter, only during such audit. CONTRACTOR shall comply with any audits  
2 specified in Paragraph 22, provide reports and any other information required  
3 by COUNTY in the administration of this Agreement, and as otherwise permitted  
4 by law.

5 28.3 CONTRACTOR shall inform all of its employees, agents,  
6 subcontractors, volunteers and partners of this provision and that any person  
7 violating the provisions of said State law may be guilty of a crime.

8 28.4 CONTRACTOR agrees that any and all subcontracts entered into shall  
9 be subject to the confidentiality requirements of this Agreement.

10 28.5 CONTRACTOR agrees to maintain the confidentiality of its records  
11 with respect to Juvenile Court matters, in accordance with WIC Section 827,  
12 all applicable statutes, caselaw, and Orange County Juvenile Court Policy  
13 regarding Confidentiality, as it now exists or may hereafter be amended.

14 28.5.1 No access, disclosure or release of information regarding  
15 a child who is the subject of Juvenile Court proceedings shall be permitted  
16 except as authorized. If authorization is in doubt, no such information shall  
17 be released without the written approval of a Judge of the Juvenile Court.

18 28.5.2 CONTRACTOR must receive prior written approval of the  
19 Juvenile Court before allowing any child to be interviewed, photographed or  
20 recorded by any publication or organization or to appear on any radio,  
21 television or internet broadcast or make any other public appearance. Such  
22 approval shall be requested through child's Social Worker.

23 29. COPYRIGHT ACCESS

24 The U.S. Department of Health and Human Services, the CDSS, and COUNTY  
25 will have a royalty-free, nonexclusive and irrevocable license to publish,  
26 translate, or use, now and hereafter, all material developed under this  
27 Agreement including those covered by copyright.

28 30. WAIVER

1 No delay or omission by either party hereto to exercise any right or  
2 power accruing upon any noncompliance or default by the other party with  
3 respect to any of the terms of this Agreement shall impair any such right or  
4 power or be construed to be a waiver thereof. A waiver by either of the  
5 parties hereto of any of the covenants, conditions, or agreements to be  
6 performed by the other shall not be construed to be a waiver of any succeeding  
7 breach thereof or of any other covenant, condition or agreement herein  
8 contained.

9 31. PUBLICITY

10 31.1 Information and solicitations, prepared and released by  
11 CONTRACTOR, concerning the services provided under this Agreement shall state  
12 that the program, wholly or in part, is funded through COUNTY, State and  
13 Federal government funds.

14 31.2 CONTRACTOR shall not disclose any details in connection with this  
15 Agreement to any person or entity except as may be otherwise provided  
16 hereunder or required by law. However, in recognizing CONTRACTOR's need to  
17 identify its services and related clients to sustain itself, COUNTY shall not  
18 inhibit CONTRACTOR from publishing its role under this Agreement within the  
19 following conditions:

20 31.2.1 CONTRACTOR shall develop all publicity material in a  
21 professional manner; and

22 31.2.2 During the term of this Agreement, CONTRACTOR shall not,  
23 and shall not authorize another to, publish or disseminate any commercial  
24 advertisements, press releases, feature articles, or other materials using the  
25 name of COUNTY without the prior written consent of COUNTY. COUNTY shall not  
26 unreasonably withhold written consent.

27 32. COUNTY RESPONSIBILITIES

28 ADMINISTRATOR will provide consultation and technical assistance, and

1 will monitor performance of CONTRACTOR in meeting the terms of this Agreement.

2 33. REFERRALS

3 33.1 CONTRACTOR shall provide services to individuals referred by  
4 ADMINISTRATOR.

5 34. REPORTS

6 34.1 CONTRACTOR shall provide information deemed necessary by  
7 ADMINISTRATOR to complete any State-required reports related to the services  
8 provided under this Agreement.

9 34.2 CONTRACTOR shall maintain records and submit reports containing  
10 such data and information regarding the performance of CONTRACTOR's services,  
11 costs or other data relating to this Agreement, as may be requested by  
12 ADMINISTRATOR, upon a form approved by ADMINISTRATOR. ADMINISTRATOR may  
13 modify the provisions of this Paragraph upon written notice to CONTRACTOR.

14 35. ENERGY EFFICIENCY STANDARDS

15 As applicable, CONTRACTOR shall comply with the mandatory standards and  
16 policies relating to energy efficiency in the State Energy Conservation Plan  
17 (Title 24, CCR).

18 36. ENVIRONMENTAL PROTECTION STANDARDS

19 CONTRACTOR shall be in compliance with ~~Section 306~~ of the Clean Air Act  
20 [Title 42 USC Section ~~1857(h)~~ 7401 et seq.], Section 508 of the Clean Water Act  
21 (Title 33 USC Section 1368 ~~1251~~ et seq.), Executive Order 11738 and  
22 Environmental Protection Agency, hereinafter referred to as "EPA," regulations  
23 (Title 40 CFR ~~Part 15~~), as any may now exist or be hereafter amended. Under  
24 these laws and regulations, CONTRACTOR assures that:

25 36.1 No facility to be utilized in the performance of the proposed  
26 grant has been listed on the EPA List of Violating Facilities;

27 36.2 It will notify COUNTY prior to award of the receipt of any  
28 communication from the Director, Office of Federal Activities, U.S. EPA,

1 indicating that a facility to be utilized for the grant is under consideration  
2 to be listed on the EPA List of Violating Facilities; and

3 36.3 It will notify COUNTY and EPA about any known violation of the  
4 above laws and regulations.

5 37. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN  
6 FEDERAL TRANSACTIONS

7 CONTRACTOR shall be in compliance with Section 319 of Public Law 101-121  
8 pursuant to Title 31 USC Section 1352 and the guidelines with respect to those  
9 provisions set down by the OMB and published in the Federal Register dated  
10 December 20, 1989, Volume 54, No. 243, pp. 52306-52332. Under these laws and  
11 regulations, it is mutually understood that any contract which utilizes  
12 Federal monies in excess of \$100,000 must contain and CONTRACTOR must certify  
13 compliance utilizing a form provided by ADMINISTRATOR that cites the  
14 following:

15 A. The definitions and prohibitions contained in the clause at  
16 Federal Acquisition Regulation 52.203-12, Limitation on Payments to Influence  
17 Certain Federal Transactions, included in this solicitation, are hereby  
18 incorporated by reference in Paragraph (B) of this certification.

19 B. The offeror, by signing its offer, hereby certifies to the  
20 best of his or her knowledge and belief as of December 23, 1989, that

21 1) No Federal appropriated funds have been paid or will  
22 be paid to any person for influencing or attempting to influence an officer or  
23 employee of any agency, a Member of Congress, an officer or employee of  
24 Congress, or an employee of a Member of Congress on his or her behalf in  
25 connection with the awarding of any Federal contract, the making of any  
26 Federal grant, the making of any Federal loan, the entering into of any  
27 cooperative agreement, and the extension, continuation, renewal, amendment or  
28 modification of any Federal contract, grant, loan or cooperative agreement;

1                   2) If any funds other than Federal appropriated funds  
2 (including profit or fee received under a covered Federal transaction) have  
3 been paid, or will be paid, to any person for influencing or attempting to  
4 influence an officer or employee of any agency, a Member of Congress, an  
5 officer or employee of Congress, or an employee of a Member of Congress on his  
6 or her behalf in connection with this solicitation, the offeror shall complete  
7 and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying  
8 Activities, to the Contracting Officer; and

9                   3) He or she will include the language of this  
10 certification in all subcontract awards at any tier and require that all  
11 recipients of subcontract awards in excess of \$100,000 shall certify and  
12 disclose accordingly.

13                   C. Submission of this certification and disclosure is a  
14 prerequisite for making or entering into this Agreement imposed by Section  
15 1352, Title 31, USC. Any person who makes an expenditure prohibited under  
16 this provision or who fails to file or amend the disclosure form to be filed  
17 or amended by this provision, shall be subject to a civil penalty of not less  
18 than \$10,000, and not more than \$100,000, for each such failure.

19                   38. POLITICAL ACTIVITY

20                   CONTRACTOR agrees that the funds provided herein shall not be used to  
21 promote, directly or indirectly, any political party, political candidate or  
22 political activity, except as permitted by law.

23                   39. TERMINATION PROVISIONS

24                   39.1 ADMINISTRATOR may terminate this Agreement without penalty  
25 immediately with cause or after thirty (30) days written notice without cause,  
26 unless otherwise specified. Notice shall be deemed served on the date of  
27 mailing. Cause shall be defined as any breach of contract, any  
28 misrepresentation or fraud on the part of CONTRACTOR. Exercise by

1 ADMINISTRATOR of the right to terminate this Agreement shall relieve COUNTY of  
2 all further obligations under this Agreement.

3 39.2 Upon termination, or notice thereof, CONTRACTOR agrees to  
4 cooperate with ADMINISTRATOR in the orderly transfer of service  
5 responsibilities, active case records, and pertinent documents.

6 39.3 The obligations of COUNTY under this Agreement are contingent upon  
7 the availability of Federal and/or State funds, as applicable, for the  
8 reimbursement of CONTRACTOR's expenditures, and inclusion of sufficient funds  
9 for the services hereunder in the budget approved by the Orange County Board  
10 of Supervisors each fiscal year this Agreement remains in effect or operation.  
11 In the event that such funding is terminated or reduced, ADMINISTRATOR may  
12 immediately terminate this Agreement, reduce COUNTY's maximum obligation, or  
13 modify this Agreement, without penalty. The decision of ADMINISTRATOR will be  
14 binding on CONTRACTOR. ADMINISTRATOR will provide CONTRACTOR with written  
15 notification of such determination. CONTRACTOR shall immediately comply with  
16 ADMINISTRATOR's decision.

17 39.4 If any provision of this Agreement or the application thereof is  
18 held invalid, the remainder of this Agreement shall not be affected thereby.

19 40. GOVERNING LAW AND VENUE

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

41. SIGNATURE IN COUNTERPARTS

The parties agree that separate copies of this Agreement may be signed by each of the parties, and this Agreement will have the same force and effect as if the original had been signed by all the parties.

///

WHEREFORE, the parties hereto have executed this Agreement in the County of Orange, California.

By: \_\_\_\_\_  
(NAME OF AUTHORIZED PERSON)  
(AUTHORIZED PERSON'S TITLE)  
(NAME OF CONTRACTOR)

By: \_\_\_\_\_  
MICHAEL F. RYAN  
DIRECTOR  
SOCIAL SERVICES AGENCY

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM  
COUNTY COUNSEL  
COUNTY OF ORANGE, CALIFORNIA

By: \_\_\_\_\_  
DEPUTY

Dated: \_\_\_\_\_



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