

1 AGREEMENT FOR PROVISION OF  
2 ADULT MENTAL HEALTH INTENSIVE RESIDENTIAL SERVICES  
3 BETWEEN  
4 COUNTY OF ORANGE  
5 AND  
6 ANNE SIPPI CLINIC TREATMENT GROUP  
7 JULY 1, 2019 THROUGH JUNE 30, 2022  
8

9 THIS AGREEMENT entered into this 1st day of July 2019 (effective date), is by and between the  
10 COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and  
11 Anne Sippi Clinic Treatment Group, a California for profit corporation (CONTRACTOR).  
12 (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually as  
13 "Party" or collectively as "Parties." This Agreement shall be administered by the Director of the  
14 COUNTY's Health Care Agency or an authorized designee ("ADMINISTRATOR").  
15

16 WITNESSETH:  
17

18 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Adult Mental  
19 Health Intensive Residential Services described herein to the residents of Orange County; and

20 WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and  
21 conditions hereinafter set forth:

22 NOW, THEREFORE, in consideration of the mutual covenants, benefits, and promises contained  
23 herein, COUNTY and CONTRACTOR do hereby agree as follows:

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**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, 2019 through June 30, 2022

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

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

Period Three means the period from July 1, 2021 through June 30, 2022

**Aggregate Maximum Obligation:**

Period One Aggregate Maximum Obligation: \$ 360,964

Period Two Aggregate Maximum Obligation: 373,598

Period Three Aggregate Maximum Obligation 386,674

TOTAL AGGREGATE MAXIMUM OBLIGATION: \$1,121,235

**Basis for Reimbursement:** Fee for Service

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS (Endicott) Number:** 79-840-5122

**CONTRACTOR DUNS (Ranch) Number:** 10-039-5107

**CONTRACTOR TAX ID Number:** 95-4257558

**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: Anne Sippi Clinic Treatment Group  
2457 Endicott Street  
Los Angeles, CA 90032  
Nick Damian, Chief Operations Officer  
Nick\_Damian@yahoo.com

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## I. ACRONYMS

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

1		
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4	A. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
5	B. AIDS	Acquired Immune Deficiency Syndrome
6	C. ARRA	American Recovery and Reinvestment Act of 2009
7	D. ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
8	E. ASI	Addiction Severity Index
9	F. ASRS	Alcohol and Drug Programs Reporting System
10	G. BHS	Behavioral Health Services
11	H. CalOMS	California Outcomes Measurement System
12	I. CalWORKs	California Work Opportunity and Responsibility for Kids
13	J. CAP	Corrective Action Plan
14	K. CCC	California Civil Code
15	L. CCR	California Code of Regulations
16	M. CESI	Client Evaluation of Self at Intake
17	N. CEST	Client Evaluation of Self and Treatment
18	O. CFDA	Catalog of Federal Domestic Assistance
19	P. CFR	Code of Federal Regulations
20	Q. CHPP	COUNTY HIPAA Policies and Procedures
21	R. CHS	Correctional Health Services
22	S. COI	Certificate of Insurance
23	T. CPA	Certified Public Accountant
24	U. CSW	Clinical Social Worker
25	V. DHCS	California Department of Health Care Services
26	W. D/MC	Drug/Medi-Cal
27	X. DPFS	Drug Program Fiscal Systems
28	Y. DRS	Designated Record Set
29	Z. EEOC	Equal Employment Opportunity Commission
30	AA. EHR	Electronic Health Records
31	AB. EOC	Equal Opportunity Clause
32	AC. ePHI	Electronic Protected Health Information
33	AD. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
34	AF. FFS	Fee For Service
35	AG. FSP	Full Service Partnership
36	AH. FTE	Full Time Equivalent
37	AI. GAAP	Generally Accepted Accounting Principles

1	AJ. HCA	County of Orange Health Care Agency
2	AK. HHS	Federal Health and Human Services Agency
3	AL. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
4		Law 104-191
5	AM. HITECH	Health Information Technology for Economic and Clinical Health
6		Act, Public Law 111-005
7	AN. HIV	Human Immunodeficiency Virus
8	AO. HSC	California Health and Safety Code
9	AP. IRIS	Integrated Records and Information System
10	AQ. ITC	Indigent Trauma Care
11	AR. LCSW	Licensed Clinical Social Worker
12	AS. MAT	Medication Assisted Treatment
13	AT. MFT	Marriage and Family Therapist
14	AU. MH	Mental Health
15	AV. MHIS	Mental Health Inpatient Services
16	AW. MHP	Mental Health Plan
17	AX. MHS	Mental Health Specialist
18	AY. MHSA	Mental Health Services Act
19	AZ. MSN	Medical Safety Net
20	BA. NIH	National Institutes of Health
21	BB. NPI	National Provider Identifier
22	BC. NPP	Notice of Privacy Practices
23	BD. NPPES	National Plan and Provider Enumeration System
24	BE. OCR	Federal Office for Civil Rights
25	BF. OIG	Federal Office of Inspector General
26	BG. OMB	Federal Office of Management and Budget
27	BH. OPM	Federal Office of Personnel Management
28	BI. P&P	Policy and Procedure
29	BJ. PA DSS	Payment Application Data Security Standard
30	BK. PATH	Projects for Assistance in Transition from Homelessness
31	BL. PC	California Penal Code
32	BM. PCI DSS	Payment Card Industry Data Security Standards
33	BN. PCS	Post-Release Community Supervision
34	BO. PHI	Protected Health Information
35	BP. PII	Personally Identifiable Information
36	BQ. PRA	California Public Records Act
37	BR. PSC	Professional Services Contract System

1	BS. SAPTBG	Substance Abuse Prevention and Treatment Block Grant
2	BT. SIR	Self-Insured Retention
3	BU. SMA	Statewide Maximum Allowable (rate)
4	BV. SOW	Scope of Work
5	BW. SUD	Substance Use Disorder
6	BX. UMDAP	Uniform Method of Determining Ability to Pay
7	BY. UOS	Units of Service
8	BZ. USC	United States Code
9	CA. WIC	Women, Infants and Children

10  
11 **II. ALTERATION OF TERMS**

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

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

19  
20 **III. ASSIGNMENT OF DEBTS**

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

28  
29 **IV. COMPLIANCE**

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

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

36 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own  
37 compliance program, code of conduct and any compliance related policies and procedures.

1 CONTRACTOR's compliance program, code of conduct and any related policies and procedures shall  
2 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required  
3 elements by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to  
4 this Agreement. These elements include:

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

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

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

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

37 //



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

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

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

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

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

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

35 6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal  
36 and state funded health care services by contract with COUNTY in the event that they are currently  
37 sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If

1 CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,  
2 CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY  
3 business operations related to this Agreement.

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

11 C. GENERAL COMPLIANCE TRAINING - ADMINISTRATOR shall make General Compliance  
12 Training available to Covered Individuals.

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

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

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

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

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

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

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

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

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

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

37 //

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

5 E. MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE STANDARDS

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

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

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

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

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

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

25 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural  
26 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural  
27 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,  
28 §1810.410.subds.(c)-(d).

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

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**V. CONFIDENTIALITY**

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

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

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

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

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

**VI. CONFLICT OF INTEREST**

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

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## **VII. COST REPORT**

1  
2 A. CONTRACTOR shall submit a Cost Report to COUNTY no later than sixty (60) calendar days  
3 following termination of this Agreement. CONTRACTOR shall prepare the Cost Report in accordance  
4 with all applicable federal, state and COUNTY requirements, GAAP and the Special Provisions  
5 Paragraph of this Agreement. CONTRACTOR shall allocate direct and indirect costs to and between  
6 programs, cost centers, services, and funding sources in accordance with such requirements and  
7 consistent with prudent business practice, which costs and allocations shall be supported by source  
8 documentation maintained by CONTRACTOR, and available at any time to ADMINISTRATOR upon  
9 reasonable notice.

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

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

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

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

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

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

33 C. Final settlement shall be based upon the actual and reimbursable costs for services hereunder,  
34 less applicable revenues and any late penalty, not to exceed COUNTY's Maximum Obligation as set  
35 forth in the Referenced Contract Provisions of this Agreement. CONTRACTOR shall not claim  
36 expenditures to COUNTY which are not reimbursable pursuant to applicable federal, state and  
37 COUNTY laws, regulations and requirements. Any payment made by COUNTY to CONTRACTOR,



1 | which is subsequently determined to have been for an unreimbursable expenditure or service, shall be  
2 | repaid by CONTRACTOR to COUNTY in cash, or other authorized form of payment, within thirty (30)  
3 | calendar days of submission of the Cost Report or COUNTY may elect to reduce any amount owed  
4 | CONTRACTOR by an amount not to exceed the reimbursement due COUNTY.

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

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

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

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

27 |  
28 | Signed \_\_\_\_\_  
29 | Name \_\_\_\_\_  
30 | Title \_\_\_\_\_  
31 | Date \_\_\_\_\_"

32 |  
33 | **VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

34 | A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without  
35 | prior written consent of COUNTY. CONTRACTOR shall provide written notification of  
36 | CONTRACTOR's intent to delegate the obligations hereunder, either in whole or part, to

37 | //

1 ADMINISTRATOR not less than sixty (60) calendar days prior to the effective date of the delegation.  
2 Any attempted assignment or delegation in derogation of this paragraph shall be void.

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

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

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

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

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

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

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

37 //

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

6 1. After approval of the subcontractor, ADMINISTRATOR may revoke the approval of the  
 7 subcontractor upon five (5) calendar days' written notice to CONTRACTOR if the subcontractor  
 8 subsequently fails to meet the requirements of this Agreement or any provisions that  
 9 ADMINISTRATOR has required. ADMINISTRATOR may disallow subcontractor expenses reported  
 10 by CONTRACTOR.

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

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

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

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

## 28 **IX. DISPUTE RESOLUTION**

29 A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the  
 30 dispute concerning a question of fact arising under the terms of this Agreement is not disposed of in a  
 31 reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be  
 32 brought to the attention of the COUNTY Purchasing Agency by way of the following process:  
 33

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



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

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

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

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

21  
22 **X. EMPLOYEE ELIGIBILITY VERIFICATION**

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

32  
33 **XI. FACILITIES, PAYMENTS AND SERVICES**

34 A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance  
35 with this Agreement. COUNTY shall compensate, and authorize, when applicable, said services.  
36 CONTRACTOR shall operate continuously throughout the term of this Agreement with at least the  
37 //

1 minimum number and type of staff which meet applicable federal and state requirements, and which are  
2 necessary for the provision of the services hereunder.

3 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or  
4 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Total Maximum  
5 Obligation for the appropriate Period as well as the Aggregate Maximum Obligation. The reduction to  
6 the Maximum Obligation shall be in an amount proportionate to the number of days in which  
7 CONTRACTOR was determined to be unable to provide services, staffing, facilities or supplies.  
8 CONTRACTOR shall, at its own expense, provide and maintain the organizational and administrative  
9 capabilities required to carry out its duties and responsibilities under this Agreement and in accordance  
10 with all the applicable statutes and regulations pertaining to Short Doyle Providers.

## 11 **XII. INDEMNIFICATION AND INSURANCE**

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

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

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

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

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

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

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

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

19 F. QUALIFIED INSURER

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

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

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

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned, and hired vehicles (4 passengers or less)	\$1,000,000 per occurrence
Passenger vehicles (7 passengers or less)	\$2,000,000 per occurrence
Passenger vehicles (8 passengers or more)	\$5,000,000 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

26 H. REQUIRED COVERAGE FORMS

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

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

31 I. REQUIRED ENDORSEMENTS

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

34 a. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least  
 35 as broad naming the *County of Orange, its elected and appointed officials, officers, agents and*  
 36 *employees* as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY**  
 37 **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 endorsements  
 5 which shall accompany the COI:

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,*  
 16 *officers, agents and employees*, or provide blanket coverage, which will state **AS REQUIRED BY**  
 17 **WRITTEN AGREEMENT.**

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

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

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

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

31 P. Insurance certificates should be forwarded to the agency/department address listed on the  
 32 solicitation.

33 Q. If the Contractor fails to provide the insurance certificates and endorsements within seven (7)  
 34 days of notification by CEO/Purchasing or the agency/department purchasing division, award may be  
 35 made to the next qualified vendor.

36 R. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease  
 37 insurance of any of the above insurance types throughout the term of this Agreement. Any increase or



1 decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately  
2 protect COUNTY.

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

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

11 U. SUBMISSION OF INSURANCE DOCUMENTS

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

13 a. Prior to the start date of this Agreement.

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

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

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

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

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

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

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

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

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### **XIII. INSPECTIONS AND AUDITS**

1  
2 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative  
3 of the State of California, the Secretary of the United States Department of HHS, the Comptroller  
4 General of the United States, or any other of their authorized representatives, shall have access to any  
5 books, documents, and records, including but not limited to, financial statements, general ledgers,  
6 relevant accounting systems, medical and client records, of CONTRACTOR that are directly pertinent to  
7 this Agreement, for the purpose of responding to a beneficiary complaint or conducting an audit, review,  
8 evaluation, or examination, or making transcripts during the periods of retention set forth in the Records  
9 Management and Maintenance Paragraph of this Agreement. Such persons may at all reasonable times  
10 inspect or otherwise evaluate the services provided pursuant to this Agreement, and the premises in  
11 which they are provided.

12 1. These audits, reviews, evaluations, or examinations may include, but are not limited to, the  
13 following:

14 a. Level and quality of care, including the necessity and appropriateness of the services  
15 provided.

16 b. Internal procedures for assuring efficiency, economy, and quality of care.

17 c. Compliance with COUNTY Client Grievances Procedures.

18 d. Financial records when determined necessary to protect public funds.

19 2. COUNTY shall provide CONTRACTOR with at least seventy-two (72) hours' notice of  
20 such inspections or evaluations. Unannounced inspections, evaluations, or requests for information may  
21 be made in those situations where arrangement of an appointment beforehand is not possible or is  
22 inappropriate due to the nature of the inspection or evaluation.

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

#### C. AUDIT RESPONSE

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

33 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement  
34 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said  
35 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of  
36 the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement  
37 is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies

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

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

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

10  
11 **XIV. LICENSES AND LAWS**

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

20 **B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS**

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

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

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

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

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

37 //



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

- 4 1. ARRA of 2009.
- 5 2. Trafficking Victims Protection Act of 2000.
- 6 3. WIC, Division 5, Community Mental Health Services.
- 7 4. WIC, Division 6, Admissions and Judicial Commitments.
- 8 5. WIC, Division 7, Mental Institutions.
- 9 6. HSC, §§1250 et seq., Health Facilities.
- 10 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 11 8. CCR, Title 9, Rehabilitative and Developmental Services.
- 12 9. CCR, Title 17, Public Health.
- 13 10. CCR, Title 22, Social Security.
- 14 11. CFR, Title 42, Public Health.
- 15 12. CFR, Title 45, Public Welfare.
- 16 13. USC Title 42. Public Health and Welfare.
- 17 14. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 18 15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 19 16. 42 USC §1857, et seq., Clean Air Act.
- 20 17. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 21 18. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 22 19. Policies and procedures set forth in Mental Health Services Act.
- 23 20. Policies and procedures set forth in DHCS Letters.
- 24 21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 25 22. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,  
 26 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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

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

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

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

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

12  
13 **XVI. MAXIMUM OBLIGATION**

14 A. The Aggregate Maximum Obligation of COUNTY for services provided in accordance with all  
15 agreements for Mental Health Inpatient Services during Period One, Period Two and Period Three are as  
16 specified in the Referenced Contract Provisions of this Agreement. This specific Agreement with  
17 CONTRACTOR is only one of several agreements to which this Aggregate Maximum Obligation  
18 applies. It therefore is understood by the Parties that reimbursement to CONTRACTOR will be only a  
19 fraction of these Aggregate Maximum Obligations.

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

22  
23 **XVII. MINIMUM WAGE LAWS**

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

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

34 C. Notwithstanding the minimum wage requirements provided for in this clause, CONTRACTOR,  
35 where applicable, shall comply with the prevailing wage and related requirements, as provided for in  
36 accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the  
37 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 (as defined in the “Compliance” paragraph of this Agreement) shall not unlawfully discriminate against any employee or applicant for employment because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally, during the term of this Agreement, CONTRACTOR and its Covered Individuals shall require in its subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

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

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

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

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

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

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

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

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

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

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

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

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

32 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as  
 33 to the findings regarding the alleged complaint and, if not satisfied with the decision, has the right to  
 34 request a State Fair Hearing.

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

1 (42 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of  
2 discrimination against qualified persons with disabilities in all programs or activities, and if applicable,  
3 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together  
4 with succeeding legislation.

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

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

14  
15 **XIX. NOTICES**

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

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

21 2. When faxed, transmission confirmed;

22 3. When sent by Email; or

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

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

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

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

35 //

36 //

37 //



**XX. NOTIFICATION OF DEATH**

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

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

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

2. WRITTEN NOTIFICATION

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

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

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

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

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

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

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

**XXII. RECORDS MANAGEMENT AND MAINTENANCE**

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

//

1 1. CONTRACTOR shall maintain records that are adequate to substantiate the services for  
2 which claims are submitted for reimbursement under this Agreement and the charges thereto. Such  
3 records shall include, but not be limited to, individual patient charts and utilization review records.

4 2. CONTRACTOR shall keep and maintain records of each service rendered to each MSN  
5 Patient, the identity of the MSN Patient to whom the service was rendered, the date the service was  
6 rendered, and such additional information as ADMINISTRATOR or DHCS may require.

7 3. CONTRACTOR shall maintain books, records, documents, accounting procedures and  
8 practices, and other evidence sufficient to reflect properly all direct and indirect cost of whatever nature  
9 claimed to have been incurred in the performance of this Agreement and in accordance with Medicare  
10 principles of reimbursement and GAAP.

11 4. CONTRACTOR shall ensure the maintenance of medical records required by §70747  
12 through and including §70751 of the CCR, as they exist now or may hereafter be amended, the medical  
13 necessity of the service, and the quality of care provided. Records shall be maintained in accordance  
14 with §51476 of Title 22 of the CCR, as it exists now or may hereafter be amended.

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

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

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

26 E. CONTRACTOR shall retain all client and/or patient medical records for seven (7) years  
27 following discharge of the participant, client and/or patient.

28 F. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges,  
29 billings, and revenues available at one (1) location within the limits of the County of Orange. If  
30 CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may provide  
31 written approval to CONTRACTOR to maintain records in a single location, identified by  
32 CONTRACTOR.

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

36 H. CONTRACTOR shall ensure all HIPAA DRS requirements are met. HIPAA requires that  
37 clients, participants and/or patients be provided the right to access or receive a copy of their DRS and/or

1 request addendum to their records. Title 45 CFR §164.501, defines DRS as a group of records  
2 maintained by or for a covered entity that is:

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

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

- 11 1. Have documents readily available within twenty-four (24) hour notice of a scheduled audit  
12 or site visit.
- 13 2. Provide auditor or other authorized individuals access to documents via a computer  
14 terminal.
- 15 3. Provide auditor or other authorized individuals a hardcopy printout of documents, if  
16 requested.

17 J. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and  
18 security of PII and/or PHI. CONTRACTOR shall, upon discovery of a Breach of privacy and/or security  
19 of PII and/or PHI by CONTRACTOR, notify federal and/or state authorities as required by law or  
20 regulation, and copy ADMINISTRATOR on such notifications.

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

24  
25 **XXIII. RESEARCH AND PUBLICATION**

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

29  
30 **XXIV. REVENUE**

31 A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to  
32 Clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or other  
33 third party health plans, are provided pursuant to this Agreement, their estates and responsible relatives,  
34 according to their ability to pay as determined by the State Department of Health Care Services’  
35 “Uniform Method of Determining Ability to Pay” procedure or by any other payment procedure as  
36 approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title 9 of the CCR.

37 //



1 Such fee shall not exceed the actual cost of services provided. No Client shall be denied services  
2 because of an inability to pay.

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

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

13 D. OTHER REVENUES – CONTRACTOR shall charge for services, supplies, or facility use by  
14 persons other than individuals or groups eligible for services pursuant to this Agreement.  
15

16 **XXV. SEVERABILITY**

17 If a court of competent jurisdiction declares any provision of this Agreement or application thereof  
18 to any person or circumstances to be invalid or if any provision of this Agreement contravenes any  
19 federal, state or county statute, ordinance, or regulation, the remaining provisions of this Agreement or  
20 the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain  
21 in full force and effect, and to that extent the provisions of this Agreement are severable.  
22

23 **XXVI. SPECIAL PROVISIONS**

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

- 26 1. Making cash payments to intended recipients of services through this Agreement.
- 27 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications  
28 and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use  
29 of appropriated funds to influence certain federal contracting and financial transactions).
- 30 3. Fundraising.
- 31 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
32 CONTRACTOR’s staff, volunteers, interns, consultants, subcontractors, and members of the Board of  
33 Directors or governing body.
- 34 5. Reimbursement of CONTRACTOR’s members of the Board of Directors or governing  
35 body for expenses or services.

36 //

37 //

1 6. Making personal loans to CONTRACTOR’s staff, volunteers, interns, consultants,  
2 subcontractors, and members of the Board of Directors or governing body, or its designee or authorized  
3 agent, or making salary advances or giving bonuses to CONTRACTOR’s staff.

4 7. Paying an individual salary or compensation for services at a rate in excess of the current  
5 Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary  
6 Schedule may be found at www.opm.gov.

7 8. Severance pay for separating employees.

8 9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building  
9 codes and obtaining all necessary building permits for any associated construction.

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

12 1. Funding travel or training (excluding mileage or parking).

13 2. Making phone calls outside of the local area unless documented to be directly for the  
14 purpose of Client care.

15 3. Payment for grant writing, consultants, certified public accounting, or legal services.

16 4. Purchase of artwork or other items that are for decorative purposes and do not directly  
17 contribute to the quality of services to be provided pursuant to this.

18  
19 **XXVII. STATUS OF CONTRACTOR**

20 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be  
21 wholly responsible for the manner in which it performs the services required of it by the terms of this  
22 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and  
23 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the  
24 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR  
25 or any of CONTRACTOR’s employees, agents, consultants, volunteers, interns, or subcontractors.  
26 CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents,  
27 consultants, volunteers, interns, or subcontractors as they relate to the services to be provided during the  
28 course and scope of their employment. CONTRACTOR, its agents, employees, consultants, volunteers,  
29 interns, or subcontractors, shall not be entitled to any rights or privileges of COUNTY’s employees and  
30 shall not be considered in any manner to be COUNTY’s employees.

31  
32 **XXVIII. TERM**

33 A. This specific Agreement with CONTRACTOR is only one of several agreements to which the  
34 term of this Agreement applies. This specific Agreement shall commence as specified in the Reference  
35 Contract Provisions of this Agreement or the execution date, whichever is later. This specific  
36 Agreement shall terminate as specified in the Referenced Contract Provisions of this Agreement, unless  
37 otherwise sooner terminated as provided in this Agreement. CONTRACTOR shall be obligated to

1 perform such duties as would normally extend beyond this term, including but not limited to, obligations  
2 with respect to confidentiality, indemnification, audits, reporting and accounting.

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

5  
6 **XXIX. TERMINATION**

7 A. Either Party may terminate this Agreement, without cause, upon ninety (90) calendar days'  
8 written notice given the other Party.

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

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

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

- 21 1. The loss by CONTRACTOR of legal capacity.
- 22 2. Cessation of services.
- 23 3. The delegation or assignment of CONTRACTOR's services, operation or administration to  
24 another entity without the prior written consent of COUNTY.
- 25 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty  
26 required pursuant to this Agreement.
- 27 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this  
28 Agreement.
- 29 6. The continued incapacity of any physician or licensed person to perform duties required  
30 pursuant to this Agreement.
- 31 7. Unethical conduct or malpractice by any physician or licensed person providing services  
32 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR  
33 removes such physician or licensed person from serving persons treated or assisted pursuant to this  
34 Agreement.

35 E. CONTINGENT FUNDING

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

37 //

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

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

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

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

13 G. In the event this Agreement is terminated by either Party pursuant to Subparagraphs B., C., or  
14 D. above, CONTRACTOR shall do the following:

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

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

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

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

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

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

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

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

36 9. Provide written notice of termination of services to each Client being served under this  
37 Agreement, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of

1 termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendars  
2 day period.

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

5  
6 **XXX. THIRD PARTY BENEFICIARY**

7 Neither party hereto intends that this Agreement shall create rights hereunder in third parties  
8 including, but not limited to, any subcontractors or any Clients provided services hereunder.

9  
10 **XXXI. WAIVER OF DEFAULT OR BREACH**

11 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any  
12 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this  
13 Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any  
14 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this  
15 Agreement.

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

3  
4 ANNE SIPPI CLINIC TREATMENT GROUP

5  
6 DocuSigned by:  
7 BY: Nicholas Damian \_\_\_\_\_ DATED: 4/18/2019  
8 645FEFC4D2DC4E8...  
9 TITLE: Chief operations officer

10  
11  
12 BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
13  
14 TITLE: \_\_\_\_\_  
15

16  
17 COUNTY OF ORANGE

18  
19  
20 BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
21 HEALTH CARE AGENCY

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

28  
29 DocuSigned by:  
30 BY: [Signature] \_\_\_\_\_ DATED: 4/18/2019  
31 79055CA571A94F8...  
32 DEPUTY

33  
34 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the  
35 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer  
36 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution  
37 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 ADULT MENTAL HEALTH INTENSIVE RESIDENTIAL SERVICES  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 ANNE SIPPI CLINIC TREATMENT GROUP  
8 JULY 1, 2019 THROUGH JUNE 30, 2022  
9

10 **I. COMMON TERMS AND DEFINITIONS**

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

13 1. ADL refers to diet, personal hygiene, clothing, care, grooming, money and household  
14 management, personal safety, symptom monitoring, etc.

15 2. AWOL refers to absent without leave and refers to a client being away from the facility  
16 without permission or a doctor's order.

17 3. AIS refers to all income other than SSI and includes such sources of income as retirement  
18 income, disability income, trust fund income, Social Security income, Veteran's Affairs disability  
19 income, etc.

20 4. Client Day means one (1) calendar day during which CONTRACTOR provides all of the  
21 services described hereunder, including the day of admission and excluding the day of discharge. If  
22 admission and discharge occur on the same day, one (1) client day shall be charged.

23 5. Client or Consumer means an individual, referred by COUNTY or enrolled in  
24 CONTRACTOR's program for services under the Agreement, who is dealing with a chronic mental  
25 illness.

26 6. Diagnosis means the definition of the nature of the client's disorder. When formulating the  
27 diagnosis of client, CONTRACTOR shall use the diagnostic codes and axis as specified in the most  
28 current edition of the DSM published by the American Psychiatric Association.

29 7. LPS refers to the Act that went into effect July 1, 1972 in California. The Act in effect  
30 ended all hospital commitments by the judiciary system, except in the case of criminal sentencing (e.g.  
31 convicted sexual offenders) and those who were "gravely disabled" defined as unable to obtain food,  
32 clothing, or shelter. It expanded the evaluative power of psychiatrists and created provisions and criteria  
33 for involuntary detentions.

34 8. HIPAA refers to the federal law that establishes standards for the privacy and security of  
35 health information, as well as standards for electronic data interchange of health information. HIPAA  
36 law has two main goals, as its name implies: making health insurance more portable when persons  
37 //



1 change employers, and making the health care system more accountable for costs-trying especially to  
2 reduce waste and fraud.

3 9. Medical Necessity means the requirements as defined in the Mental Health Plan Medical  
4 Necessity for Medi-Cal reimbursed Specialty Mental Health Services that includes Diagnosis,  
5 Impairment Criteria and Intervention Related Criteria.

6 10. Mental Health Services means interventions designed to provide the maximum reduction of  
7 mental disability and restoration or maintenance of functioning consistent with the requirements for  
8 learning, development and enhanced self-sufficiency. Services shall include:

9 a. Assessment means a service activity, which may include a clinical analysis of the  
10 history and current status of a beneficiary’s mental, emotional, or behavioral disorder, relevant cultural  
11 issues and history, diagnosis and the use of testing procedures.

12 b. Medication Support Services means those services provided by a licensed physician,  
13 registered nurse, or other qualified medical staff, which includes prescribing, administering, dispensing  
14 and monitoring of psychiatric medications or biologicals and which are necessary to alleviate the  
15 symptoms of mental illness. These services also include evaluation and documentation of the clinical  
16 justification and effectiveness for use of the medication, dosage, side effects, compliance and response  
17 to medication, as well as obtaining informed consent, providing medication education and plan  
18 development related to the delivery of the service and/or assessment of the beneficiary.

19 c. Rehabilitation Service means an activity which includes assistance in improving,  
20 maintaining, or restoring a client’s or group of clients’ functional skills, daily living skills, social and  
21 leisure skill, grooming and personal hygiene skills, meal preparation skills, support resources and/or  
22 medication education.

23 d. Therapy means a service activity which is a therapeutic intervention that focuses  
24 primarily on symptom reduction as a means to improve functional impairments. Therapy may be  
25 delivered to an individual or group of beneficiaries which may include family therapy in which the  
26 beneficiary is present.

27 11. MHSA refers to the law that provides funding for expanded community mental health  
28 services. It is also known as “Proposition 63.”

29 12. NPI refers to the standard unique health identifier that was adopted by HHS under HIPAA  
30 for health care providers. All HIPAA covered healthcare providers, individuals and organizations must  
31 obtain an NPI for use to identify themselves in HIPAA standard transactions. The NPI is assigned for  
32 life.

33 13. NPP refers to a document that notifies individuals of uses and disclosures of PHI that may  
34 be made by or on behalf of the health plan or health care provider as set forth in the HIPAA.

35 14. PHI refers to individually identifiable health information usually transmitted by electronic  
36 media, maintained in any medium as defined in the regulations, or for an entity such as a health plan,  
37 transmitted or maintained in any other medium. It is created or received by a covered entity and relates



1 to the past, present, or future physical or mental health or condition of an individual, provision of health  
2 care to an individual, or the past, present, or future payment for health care provided to an individual.

3 15. Psychiatrist means an individual who meets the minimum professional and licensure  
4 requirements set forth in Title 9, CCR, Section 623.

5 16. Psychologist means an individual who meets the minimum professional and licensure  
6 requirements set forth in Title 9, CCR, Section 624.

7 17. Recovery is a “process of change through which individuals improve their health and  
8 wellness, live a self-directed life and strive to reach their full potential,” and identifies four major  
9 dimensions to support recovery in life:

10 a. “Health: Overcoming or managing one’s disease(s) as well as living in a physically and  
11 emotionally healthy way;

12 b. Home: A stable and safe place to live

13 c. Purpose: Meaningful daily activities, such as a job, school, volunteerism, caretaking or  
14 creative endeavors, and the independence, income, and resources to participate in society; and

15 d. Community: Relationships and social networks that provide support, friendship, love,  
16 and hope.”

17 18. Referral means providing the effective linkage of a client to another service, when  
18 indicated.

19 19. SNF/STP refers to a facility certified by the DHCS to a facility that provides twenty-four  
20 (24)-hour/day skilled nursing care and supervision and at least twenty-seven (27) hours of programming  
21 to clients with a primary psychiatric diagnosis, who may also have co-existing medical conditions. In  
22 most cases, clients are conserved under LPS.

23 20. SSI/SSP refers to revenue resources paid to an eligible client, or the client’s payee, by the  
24 federal Social Security Administration.

25 21. UOS means one (1) calendar day during which CONTRACTOR provides all of the services  
26 described hereunder, which day shall begin at twelve o’clock midnight. The number of billable UOS  
27 shall include the day of admission and exclude the day of discharge unless admission and discharge  
28 occur on the same day.

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

31  
32 **II. ISSUE RESOLUTION**

33 A. CONTRACTOR agrees that for resolution of issues between COUNTY and CONTRACTOR,  
34 with respect to the implementation and operation of the Agreement or COUNTY’s P&P regarding  
35 services described herein, the following sequential steps will be followed:

36 1. CONTRACTOR shall routinely utilize all informal communication processes and methods  
37 with ADMINISTRATOR including, but not limited to, telephone, email, and fax communication,

1 written correspondence and meetings, to resolve any issues or problems regarding the implementation  
2 and operation of the Agreement or ADMINISTRATOR’s P&P regarding services described herein.

3 2. CONTRACTOR agrees that if the parties are unable to resolve the issue, CONTRACTOR  
4 shall give written notice to ADMINISTRATOR setting forth, in specific terms, the existence and nature  
5 of any unresolved matter or concern related to the purposes and obligations of the Agreement.  
6 ADMINISTRATOR shall be given fifteen (15) calendar days following such notice to obtain resolution  
7 of any issue(s) identified in this manner. CONTRACTOR agrees that by mutual consent this period of  
8 time may be extended to thirty (30) calendar days.

9 3. CONTRACTOR agrees that if the parties are still unable to obtain resolution of the issue,  
10 they shall submit a joint written statement describing the facts of the issue, within thirty (30) calendar  
11 days after the written notice described above to COUNTY’s Director of Behavioral Health, or designee,  
12 for final resolution.

13 B. The rights and remedies provided by this paragraph are in addition to those provided by law to  
14 either party.

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

17  
18 **III. PATIENTS’ RIGHTS**

19 A. CONTRACTOR shall post the current California DHCS Patients’ Rights poster as well as the  
20 local MHP Complaint and Grievance posters in all threshold languages in locations readily available to  
21 patients and staff and have complaint forms and complaint envelopes readily accessible to patients.

22 B. In addition to those processes provided by COUNTY, CONTRACTOR shall have complaint  
23 resolution and grievance processes approved by ADMINISTRATOR, to which the beneficiary shall have  
24 access.

25 1. CONTRACTOR’s complaint resolution processes shall emphasize informal, easily  
26 understood steps designed to resolve disputes as quickly and simply as possible in all threshold  
27 languages.

28 2. CONTRACTOR’s complaint resolution and grievance processes shall incorporate  
29 COUNTY’s and the resident County’s grievance, patients' rights, and utilization management guidelines  
30 and procedures.

31 C. Complaint Resolution and Grievance Process - COUNTY shall support complaint and grievance  
32 procedures in concert with the resident County that shall include the components outlined below. The  
33 resident County will handle such complaints that may include allegations of denial of rights,  
34 dissatisfaction with services or with the quality of care, or dissatisfaction with the condition of the  
35 physical plant. COUNTY will handle such complaints regarding access to care or regarding COUNTY’s  
36 Public Administrator/Public Guardian Office services.

37 //

1 1. Complaint Resolution. This process will specifically address and attempt to resolve client  
2 complaints and concerns at CONTRACTOR’s facility.

3 2. Formal Grievance. When the client's complaint is not resolved at CONTRACTOR’s  
4 facility and the client or client representative requests it, the complaint becomes a formal grievance. The  
5 request is made to the respective Resident County or ADMINISTRATOR and represents the first step in  
6 the formal grievance process.

7 3. Title IX Rights Advocacy. This process may be initiated by a client who registers a  
8 statutory rights violation or a denial or abuse complaint with COUNTY Patients’ Rights Office. The  
9 Patients’ Rights office shall investigate the complaint, and Title IX grievance procedures shall apply,  
10 which involve COUNTY Behavioral Health Director and the State Patients’ Rights Office.

11 D. CONTRACTOR agrees that clients have recourse to initiate a complaint to CONTRACTOR,  
12 appeal to the respective resident County or COUNTY’s Patients’ Rights Office, to file a formal  
13 grievance, file a Title IX complaint. The Patients’ Advocate shall advise and assist the client,  
14 investigate the cause of the complaint or grievance, and attempt to resolve the matter.

15 E. CONTRACTOR agrees that no provision of the Agreement shall be construed to replace or  
16 conflict with the duties of COUNTY Patients' Rights Office pursuant to WIC Section 5500.

17 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing to modify the  
18 Patients’ Rights Paragraph of this Exhibit A to the Agreement.

19  
20 **IV. PAYMENTS**

21 A. For all services provided pursuant to the Agreement, COUNTY shall pay CONTRACTOR  
22 monthly, in arrears at the rate of \$168.45 per client bed day; provided, however, the total of all such  
23 payments to CONTRACTOR during Period One, Period Two, and Period Three shall not exceed the  
24 Maximum Obligation for each Period as specified in the Referenced Contract Provisions of the  
25 Agreement. Reimbursement shall be made only for services provided to clients who are certified by  
26 ADMINISTRATOR as eligible to receive services.

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

32 2. CONTRACTOR shall collect SSI/SSP revenue, additional income sources and all other  
33 revenues due the client, conservator/guardian, or legally responsible person to determine a client share of  
34 cost. CONTRACTOR shall ensure that the client share of cost is clearly stated on the  
35 CONTRACTOR’s invoice. CONTRACTOR shall deduct the client’s share of costs from the amount  
36 owed to CONTRACTOR by the COUNTY.

37 //

1 a. ADMINISTRATOR shall review and approve client’s revenue and share of cost.  
2 ADMINISTRATOR may adjust CONTRACTOR’s monthly invoice if the appropriate revenue is not  
3 stated and/or the share of cost has not been appropriately deducted from the amount due from the  
4 COUNTY.

5 b. ADMINISTRATOR may authorize CONTRACTOR to use a portion of the revenue for  
6 non-covered costs such as personal and/or incidental costs for the client's care or personal needs.  
7 ADMINISTRATOR shall monitor such costs and may adjust the invoice to ensure that the appropriate  
8 costs are deducted from the amount due from the COUNTY.

9 B. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply  
10 with any provision of the Agreement.

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

13  
14 **V. REPORTS**

15 A. CONTRACTOR shall report all special incidents to ADMINISTRATOR and shall submit a  
16 written special incident report referred to as “Notable Incident Form” in accordance with the Notices  
17 Paragraph of this Exhibit A to the Agreement. Special incidents shall include, but are not limited to,  
18 client's suicide or attempted suicide, elopement or absence without leave, serious injury, death, criminal  
19 behavior including arrests with or without conviction, positive test results for substance abuse from  
20 urine screenings, or any other incident which may expose COUNTY or CONTRACTOR to liability.

21 B. STAFFING – CONTRACTOR shall submit to ADMINISTRATOR, on a quarterly basis, a list  
22 of individuals who provide services under the Agreement and their job descriptions. The staff list shall  
23 state the employee name, job title, professional degree, and license number, if applicable.

24 C. PROGRAMMATIC – CONTRACTOR shall submit monthly programmatic reports to  
25 ADMINISTRATOR, which shall be received no later than fourteen (14) days following the end of the  
26 month being reported. These reports shall be on a form acceptable to, or provided by,  
27 ADMINISTRATOR and shall evaluate each client’s participation and functioning in CONTRACTOR’s  
28 psycho-social rehabilitation program.

29 D. CONTRACTOR shall provide ADMINISTRATOR a copy of the annual State Community Care  
30 licensing audit within sixty (60) calendar days of the exit interview. CONTRACTOR shall provide  
31 ADMINISTRATOR copies of plans of correction in order to determine the quality and nature of services  
32 provided hereunder. ADMINISTRATOR will allow thirty (30) calendar days for CONTRACTOR to  
33 respond.

34 E. CONTRACTOR shall provide census data monthly or more frequently as requested by the  
35 ADMINISTRATOR. CONTRACTOR shall notify ADMINISTRATOR by telephone whenever a client  
36 is sent out for acute psychiatric or general medical hospital care. CONTRACTOR will notify  
37 //

1 ADMINISTRATOR in writing whether the client will be accepted back as soon as the client is stabilized  
2 and ready for return.

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

5  
6 **VI. SERVICES**

7 **A. FACILITY**

8 1. CONTRACTOR shall provide two (2) licensed Community Care Facilities dedicated for the  
9 care of those clients referred by COUNTY. Such beds shall be located at the following address or other  
10 facility approved in advance and in writing by ADMINISTRATOR. Facility shall provide for a safe and  
11 secure treatment setting appropriate to the level of care of its treatment population.

12	2457 Endicott Street	19200 Highway 178
13	Los Angeles, CA 90032	Bakersfield, CA 93306

14  
15  
16 2. CONTRACTOR's facilities shall include the following:  
17 a. Private or semi-private rooms for each client;  
18 b. Kitchen area including refrigerator, stove, and sink;  
19 c. Dining area;  
20 d. Central living area or group room(s) with an appropriate capacity for group meetings,  
21 occupational and vocational therapy, activities, or visitors.

22 3. CONTRACTOR shall make available appropriate office space for confidential medical  
23 examinations and client interviews.

24 4. CONTRACTOR shall maintain an environment conducive to the total care and treatment of  
25 persons who are mentally ill.

26 5. CONTRACTOR shall maintain well-groomed landscaping and a well maintained facility  
27 appearance.

28 **B. PERSONS TO BE SERVED**

29 1. CONTRACTOR shall serve clients, as defined by WIC Section 5903, who are referred by  
30 COUNTY and authorized for services under the Agreement. CONTRACTOR shall admit clients with a  
31 DSM diagnosis in need of twenty-four (24)-hour residential care services. These clients may include  
32 persons who have histories of, or are at risk for, combativeness, suicide, and excessive verbal  
33 abusiveness.

34 2. CONTRACTOR may deny admission of a client based upon lack of availability of beds.  
35 CONTRACTOR may deny admission of a client if the number of COUNTY clients receiving services  
36 pursuant to the Agreement in CONTRACTOR's facility exceeds the number of beds specified in  
37 Subparagraph XI.C.1. of this Exhibit A to the Agreement.



1 C. SERVICES PROVIDED

2 1. CONTRACTOR shall serve an average of seven (7) consumers per day or a minimum of  
3 two thousand five hundred fifty-five (2,555) client bed days annually, dedicated for the care of those  
4 clients referred by COUNTY.

5 2. CONTRACTOR shall provide a specialized intensive residential program seven (7) days  
6 per week with an emphasis on structured client-centered rehabilitative and treatment services.

7 a. The overall goal of this program shall be to increase the functional levels of clients,  
8 enabling them to transition to less restrictive levels of intervention, including independent living.

9 b. ADMINISTRATOR, in conjunction with CONTRACTOR, shall develop a Treatment  
10 Plan for each client which includes goals identified by the client and steps the client needs to take in  
11 order to reach these goals.

12 3. CONTRACTOR shall provide a program consistent with the State mandate to place clients  
13 in the least restrictive level of care possible. Determination regarding discharge of a client to a lower  
14 level of care shall be made by ADMINISTRATOR in conjunction with the facility treatment team.

15 4. CONTRACTOR will identify behaviors that present barriers to placement at lower levels of  
16 care and shall focus on treatment that addresses these behaviors.

17 5. CONTRACTOR shall provide a recovery-based structured psycho-social rehabilitation  
18 program that will assist clients to move along the rehabilitative continuum so that daily living skills are  
19 learned and reinforced each day. The program shall consist of one-to-one interaction between  
20 CONTRACTOR's staff and clients, as well as a minimum of five (5) planned and structured group  
21 activities each week led by CONTRACTOR's case management staff. CONTRACTOR services shall  
22 include, but not be limited to, the following:

23 a. All basic services required of a Community Care Facility licensed by the State  
24 Department of Social Services as set forth in CCR, Title 22, including twenty-four (24) hour awake  
25 supervision of clients;

26 b. Behavior management services to improve clients' social skills and interpersonal  
27 relationships;

28 c. Training in independent living skills to facilitate clients' transition to a more  
29 independent living arrangement; this includes daily education and training in the use of public  
30 transportation, grooming, hygiene, laundry, care of personal belongings, cleanliness of personal and  
31 community rooms, cooking, and money management skills;

32 d. Vocational and pre-vocational activities that will help clients to develop self-confidence  
33 and work-related skills, thereby increasing their chances of obtaining paid employment; vocational  
34 activities may include kitchen help, gardening, facility maintenance, woodworking, temporary  
35 employment, volunteer work and full-time employment;

36 e. A daily physical activity or exercise program designed to enhance the physical  
37 well-being of clients;



1 f. Individual and small group recreational outings designed to help the client use  
2 community resources;

3 g. Establishing positive working relationships with clients, their families, friends, and  
4 Care Coordinators to plan and implement client driven goals;

5 h. Transportation of clients to essential appointments.

6 6. CONTRACTOR shall provide Medication Support Services which shall include, but not be  
7 limited to, the following:

8 a. Encouraging clients to take their medication and helping them to recognize the side  
9 effects of their medications;

10 b. Medication education in group and individual settings so that clients understand the  
11 need for medication related to their psychiatric condition, the signs of decompensation, and how to  
12 implement an appropriate corrective action plan;

13 c. Monitoring and encouraging clients' medication compliance and working cooperatively  
14 and effectively with their prescribing physicians;

15 d. Providing in-service staff training in effects and side effects of psychotropic  
16 medications. CONTRACTOR shall make sure that all staff have knowledge of and familiarity with this  
17 important element of treatment.

18 7. CONTRACTOR shall use a program that identifies and rewards targeted behaviors and  
19 skills as appropriate for each client. CONTRACTOR shall document individual client progress in  
20 achieving the goals of their Treatment Plan and provide special recognition for clients functioning at  
21 advanced levels. CONTRACTOR shall not provide cigarettes or other tobacco products as rewards for  
22 targeted behaviors.

23 8. CONTRACTOR shall meet the requirements of CCR, Title 22, Division 6 as it pertains to  
24 the following:

25 a. Maintaining client records, including documentation of tuberculosis clearance;

26 b. Providing secure storage of clients' valuables, including medications:

27 1) Medication shall be kept in a safe and locked place that is not accessible to persons  
28 other than employees responsible for the supervision of centrally stored medications;

29 2) Medication shall be stored in its originally received container. No medication shall  
30 be transferred between containers;

31 c. Maintaining a record of daily occupancy;

32 d. Protecting clients' rights to privacy and confidentiality;

33 e. Providing basic life support and other support services, including food, housekeeping,  
34 laundry, excluding personal items, and arrangements for emergency and non-emergency medical  
35 services.

36 9. CONTRACTOR shall maintain the following and ensure that clients are made aware of  
37 them:

- 1 a. House rules
- 2 b. Residents' rights
- 3 c. Policies regarding resident fees

4 10. CONTRACTOR shall assist clients in establishing and maintaining a client oriented facility  
 5 council in accordance with CCR, Title 22, Division 6. The client-run council provides opportunity for  
 6 client input into the operations of the facility, including but not limited to, activities, house rules, and  
 7 resolution of disputes/disagreements.

8 11. CONTRACTOR shall establish an admission policy that states that all COUNTY client  
 9 admissions shall result from referrals from the ADMINISTRATOR. CONTRACTOR and  
 10 ADMINISTRATOR shall communicate and coordinate any action which impacts a client's continued  
 11 eligibility for program services and which might otherwise result in discharge from the program.

12 12. CONTRACTOR shall work cooperatively with ADMINISTRATOR in placing clients in  
 13 other appropriate facilities, including clients released from LPS conservatorship.

14 13. CONTRACTOR shall notify ADMINISTRATOR within three (3) business days when  
 15 Conservatorship terminates.

16 14. CONTRACTOR shall notify ADMINISTRATOR within two (2) hours by telephone and  
 17 one (1) working day in writing of any change in census, e.g. transfers to acute psychiatric and medical  
 18 hospitals, clients discharged to a lower level of care, clients on unauthorized leave AWOL and voluntary  
 19 clients discharged AMA.

20 15. CONTRACTOR shall complete and submit discharge information on  
 21 ADMINISTRATOR's Long Term Care Discharge Form within one (1) business day of discharge.  
 22 CONTRACTOR shall also notify the ADMINISTRATOR of the discharge by telephone call.

23 16. If a client is sent to an acute psychiatric or medical hospital, CONTRACTOR shall notify  
 24 ADMINISTRATOR and indicate the intent related to acceptance of the client back following hospital  
 25 discharge.

26 17. CONTRACTOR shall provide psychiatrist time and services regarding conservatorship  
 27 issues. This includes the annual filing of court documents to renew conservatorship, as well as LPS  
 28 Conservatorship Court appearances/testimony as requested by COUNTY. CONTRACTOR shall  
 29 provide medical and psychiatric records as needed for all Court appearances.

30 18. CONTRACTOR shall attend COUNTY sponsored or recommended training, as  
 31 appropriate, for the purpose of increasing familiarity with COUNTY guidelines and providing more  
 32 effective services.

33 **D. QUALITY IMPROVEMENT AND PERFORMANCE OUTCOMES**

34 1. The overall goal of these services is to increase the functional levels of clients, enabling  
 35 them to transition to less restrictive levels of intervention, including independent living.

36 2. CONTRACTOR shall develop and maintain a plan for quality improvement, the overall  
 37 goal of which is the maintenance of high quality care and effective utilization of services offered. This

1 plan shall include utilization review, peer review, and medication monitoring as mandated by the  
2 California DHCS. This plan will contain measurable outcomes and focus on personal growth and  
3 recovery for clients who are functionally impaired by psychiatric symptoms with a path to treatment in  
4 less restrictive levels of care and a return to community living.

5 3. For all services proposed, the selected applicant shall be required to meet the following  
6 performance objectives annually:

7 a. To increase the client’s motivation and skills toward self-restoration by involving  
8 clients in directing their own treatment programs and ensuring the use of the most effective and newest  
9 psychiatric and medical pharmacological treatments and methods.

10 b. To assist the County in efficiently and effectively managing limited resources by  
11 providing an alternative to utilization of state hospital days and acute hospital administrative days.

12 c. To prevent the need for re-hospitalization in acute psychiatric or medical facilities by  
13 maintaining clients in a stable environment and assisting clients to maintain or improve functioning and  
14 decrease symptoms.

15 4. CONTRACTOR shall cooperate with COUNTY in meeting quality improvement and  
16 utilization review standards.

17 5. CONTRACTOR shall provide assistance to COUNTY in conducting its utilization and  
18 reporting functions, and medical necessity determination.

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

21  
22 **VII. STAFFING**

23 A. CONTRACTOR shall provide staffing patterns and policies that meet the following  
24 requirements:

25 1. Provision of shelter, food services, and supportive services provided directly by the program  
26 in accordance with the guidelines outlined in the Services Paragraph of this Exhibit A to the Agreement.

27 2. Provision for twenty-four (24)-hour on-site management of the facility, including night  
28 supervision in accordance with CCR, Title 22, Division 6;

29 3. Provision of licensed staff responsible for the planning, implementation, and day-to-day  
30 supervision of all treatment services. All therapeutic treatment activities shall be carried out by  
31 personnel with appropriate specialized mental health training;

32 4. Provision of Case Managers/Case Manager Supervisors to implement structured individual  
33 and group psycho-social rehabilitative services;

34 5. Documentation of employee qualifications and job descriptions for each position which  
35 include duties and responsibilities, bilingual/bicultural requirements, and proof of licensure, where  
36 applicable;

37 //

1           6. A written policy for the use of volunteers and part-time student interns which may augment  
2 paid staff.

3           B. CONTRACTOR shall make its best efforts 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 documentation 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, persons who are physically challenged.

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

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1  
2 EXHIBIT B  
3 AGREEMENT FOR PROVISION OF  
4 ADULT MENTAL HEALTH INTENSIVE RESIDENTIAL SERVICES  
5 BETWEEN  
6 COUNTY OF ORANGE  
7 AND  
8 ANNE SIPPI CLINIC TREATMENT GROUP  
9 JULY 1, 2019 THROUGH JUNE 30, 2022

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 be hereafter amended.

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

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

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

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

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

1 with respect to PHI and ePHI created, received, maintained, transmitted, used, or disclosed pursuant to  
2 the Agreement.

3 B. DEFINITIONS

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

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

9 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

23 16. “Technical safeguards” means the technology and the P&Ps for its use that protect ePHI and  
24 control access to it.

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

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

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

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

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

37 //

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 45 CFR  
4 Part 164 with respect to ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates,  
5 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 employees,  
9 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 subcontract, 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) days 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

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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 ePHI 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 ePHI 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, maintains,  
23 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  
25 E., 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 functions  
7 or activities on behalf of COUNTY in connection with Agreement, or access or disclose PHI COUNTY  
8 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
9 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 for  
23 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 discloses  
6 to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
7 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 algorithm  
12 which is 128bit or higher, such as AES. Such PHI shall not be considered “removed from the premises”  
13 if it is only being transported from one of CONTRACTOR’s locations to another of CONTRACTOR’s  
14 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 cannot  
25 be patched due to operational reasons must have compensatory controls implemented to minimize risk,  
26 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)



1 3) Arabic numerals (0-9)

2 4) Non-alphanumeric characters (punctuation symbols)

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

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

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

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

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

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

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

37 //

1           3. Audit Controls

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

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

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

15           4. Business Continuity/Disaster Recovery Control

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

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

28           5. Paper Document Controls

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

35           b. Escorting Visitors. Visitors to areas where PHI COUNTY discloses to  
36 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is  
37 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  
2 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be disposed of  
3 through 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  
13 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall be sealed and  
14 secured from damage or inappropriate viewing of PHI to the extent possible. Mailings which include  
15 five hundred (500) or more individually identifiable records containing PHI COUNTY discloses to  
16 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in  
17 a single package shall be sent using a tracked mailing method which includes verification of delivery  
18 and receipt, unless 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 period  
2 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 requests  
32 for further information, or follow-up information after report to COUNTY, when such request is made  
33 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 is  
13 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 P&Ps 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).

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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.

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1 EXHIBIT C  
2 AGREEMENT FOR PROVISION OF  
3 ADULT MENTAL HEALTH INTENSIVE RESIDENTIAL SERVICES  
4 BETWEEN  
5 COUNTY OF ORANGE  
6 AND  
7 ANNE SIPPI CLINIC TREATMENT GROUP  
8 JULY 1, 2019 THROUGH JUNE 30, 2022  
9

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

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

13 A. DEFINITIONS

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

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

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

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

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

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

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

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

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

1 the production of information, including statutes or regulations that require such information if payment  
2 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 Agreement  
10 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 Federal  
32 Automated Information Systems, which sets forth guidelines for automated information systems in  
33 Federal agencies.

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

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

7 d. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful  
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,  
19 including 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 an  
31 individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for  
32 carrying out the requirements of this Personal Information Privacy and Security Contract and for  
33 communicating on security matters with the COUNTY.

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## Agenda Item



## AGENDA STAFF REPORT

ASR Control 19-000374

**MEETING DATE:** 05/21/19

**LEGAL ENTITY TAKING ACTION:** Board of Supervisors

**BOARD OF SUPERVISORS DISTRICT(S):** All Districts

**SUBMITTING AGENCY/DEPARTMENT:** Health Care Agency (Pending)

**DEPARTMENT CONTACT PERSON(S):** Annette Mugrditchian (714) 834-5026  
Jeff Nagel (714) 834-7024

**SUBJECT:** Psychiatric Skilled Nursing Facility and Intensive Residential Services

**CEO CONCUR**  
Pending Review

**COUNTY COUNSEL REVIEW**  
Pending Review

**CLERK OF THE BOARD**  
Discussion  
3 Votes Board Majority

**Budgeted:** N/A

**Current Year Cost:** N/A

**Annual Cost:** FY 2019-20  
\$12,274,690  
FY 2020-21 \$12,704,304  
FY 2021-22 \$13,148,955

**Staffing Impact:** No

**# of Positions:**

**Sole Source:** No

**Current Fiscal Year Revenue:** N/A

**Funding Source:** GF: 12%, State: 88% (Mental Health Realignment, Vehicle License Fee, Managed Care, Purpose Restrict Rev-Int)

**County Audit in last 3 years:** No

**Prior Board Action:** 03/28/17 #16, 05/24/2016 #57, 05/06/2014 #24

**RECOMMENDED ACTION(S):**

1. Approve the Master Agreement with various providers for provision of Adult Mental Health Psychiatric Skilled Nursing Facility Services for the period of July 1, 2019, through June 30, 2022, for a total aggregate maximum obligation not to exceed \$37,006,714.
2. Approve the Agreement with Anne Sippi Clinic Treatment Group for provision of Adult Mental Health Intensive Residential Services for the period of July 1, 2019, through June 30, 2022, for a total maximum obligation not to exceed \$1,121,235.
3. Authorize the Health Care Agency Director, or designee, to exercise a contingency contract cost increase not to exceed \$1,191,372 which is 10 percent of the first year funding of the Master Agreement for Recommended Action #1, to be used over the entire term of the Master Agreement and within the scope of work set forth in the Agreement, pursuant to Contract Policy Manual Section 3.4-114. The contingency provision would be exercised in the event there is an increase in the projected services needed for the clients being served.

4. Authorize the Health Care Agency Director, or designee, to exercise a contingency contract cost increase in the amount not to exceed 10 percent of the first year funding of the Agreement for Recommended Action #2, to be used over the entire term of the Agreement and within the scope of work set forth in the Agreement, pursuant to Contract Policy Manual Section 3.4-114. The contingency provision would be exercised in the event there is an increase in the projected services needed for the clients being served.
5. Authorize the Health Care Agency Director, or designee, to execute the Agreements, as referenced in the Recommended Actions above.

### SUMMARY:

Approval of the Master Agreement for provision of Adult Mental Health Psychiatric Skilled Nursing Facility Services and the Agreement with Anne Sippi Clinic Treatment Group will provide psychiatric skilled nursing facility and intensive residential treatment services to severely mentally ill residents of Orange County.

### BACKGROUND INFORMATION:

On May 6, 2014, your Honorable Board of Supervisors (Board) approved the Master Agreement for provision of Adult Mental Health Psychiatric Skilled Nursing Facility (SNF) Services, and the Agreement with Anne Sippi Clinic Treatment Group (Anne Sippi) for provision of Adult Mental Health Intensive Residential Services for period of July 1, 2014, through June 30, 2017. During FY 2015-16, a First Amendment to the Master Agreement was executed to exercise the 10 percent contingency increase to meet the need for additional SNF services. On May 24, 2016, the Board approved a Second Amendment to the Master Agreement to increase funding for FY 2016-17. The current Agreements will end June 30, 2019, and the proposed Agreements will allow services to continue July 1, 2019 through June 30, 2022.

FY	SNF Maximum Obligation	Anne Sippi Maximum Obligation
2017-18	\$11,133,043	\$348,757
2018-19	\$11,522,699	\$348,757
2019-20	\$11,913,726	\$360,964
2020-21	\$12,330,706	\$373,598
2021-22	\$12,762,281	\$386,674

Each individual Agreement will share the annual maximum obligation and funding between Board approved providers, which will vary based on utilization. Health Care Agency requests that the Board approve the selection of and the Agreements for the provision of Adult Mental Health Psychiatric SNF Services and Adult Mental Health Intensive Residential Services.

### Psychiatric SNF Services

The Health Care Agency (HCA) currently contracts with six organizations to provide 24-hour, seven days per week Psychiatric SNF Services for severely mentally ill Orange County clients who are residing in locked and unlocked Skilled Nursing Facilities. These programs provide recovery-based mental health



services including medication management and a minimum of 27 hours per week of structured therapeutic group activities.

The proposed Agreement reflects a 3.5 percent rate increase each year, consistent with the State mandated rate setting for these types of services. Utilization has increased to 54,780 beds days in FY 2017-18 and remains high with 41,145 used in the first 3 quarters of FY 18-19 leading to a projection of 55,395 bed days for FY 18-19. The majority of consumers placed in these programs are Lanterman-Petris Short conservatees, referred from either the State hospital system or acute care hospitals, with a long history of serious mental illness that requires long-term care.

HCA staff have conducted due diligence on the Contractor's performance which has been confirmed as satisfactory. Contractor is currently under a contract with HCA. HCA has verified there are no concerns that must be addressed with respect to the Contractor's name/ownership, litigation status or conflicts with County interests.

In addition to the services outlined above, the County provides supplemental rates for specialized services which include programming tailored for those with hearing impairments, medical co-morbidities, and dangerous behaviors which require more intensive behavioral interventions and supervision.

The proposed performance outcomes for these programs are to improve client functioning levels and decrease symptoms as evidenced by discharging clients to a lower level of care.

<u>Fiscal Year</u>	Number of Clients Served	Number of Bed Days Utilized	Percent Discharged to Lower Level of Care	Percent Discharged to Higher Level of Care
2017-2018	207	54,780	54%	11%
2018-2019 (July thru March)	188	41,145	50%	23%

The rate of discharges to lower levels has risen significantly as reflected in the chart. In comparison, during FY 15-16 there were 171 participants served, and a discharge to lower level of care rate of 36 percent. Approximately 25-35 percent of clients are discharged to other locations not considered higher or lower levels of service, usually for treatment of medical comorbidities in general acute hospitals or medical skilled nursing facilities.

### **Intensive Residential Services**

HCA currently contracts with Anne Sippi to provide Intensive Residential Services in two unlocked licensed Board and Care Facilities. The target population for these services are high acuity clients, often from the state hospital or other acute settings who have complex symptoms and are difficult to place in alternate settings. These services provide a recovery-based, structured psycho-social rehabilitative program that assists clients to move along the rehabilitative continuum. In addition to one-to-one interaction between clinical staff and clients, there is a minimum of five planned and structured group activities each week provided by psychologists and other clinical staff as well as medication services.

The proposed annual maximum obligation for Intensive Residential Services reflects a 3.5 percent negotiated increase in rates for each year and allows for approximately 7 clients per day or a maximum utilization of 2,555 bed days annually.



<u>Fiscal Year</u>	Number of clients served	Average Length of Stay (LOS) for Clients Completing Program	Percent of Clients Discharged to a Lower Level of Care
2017-18	12	16 Months	37%
2018-19 (July thru March)	13	11 months	17%

The LOS for clients completing the program ranges between nine months and 3.5 years. Those clients discharged to a higher level of care, usually for psychiatric stabilization, have an average LOS of 32 days, and often will readmit to the facility, being given the opportunity succeed in the program multiple times. However, this may affect the measured outcomes for the program. This program also admits clients directly from the State hospital system and are treating a fragile population.

The proposed Agreement with Anne Sippi will not have any subcontracts or pass through to other providers. This Agreement does not currently include subcontractors or pass through to other providers. See attachment C and D for Contract Summary Forms.

HCA requests the Board authorize the HCA Director, or designee, to exercise a contingency contract cost increase in an amount not to exceed \$1,227,469 which is 10 percent of the first year funding of the Agreements, for the entire term of the Agreement and within the scope of work set forth in the Agreements, pursuant to Contract Policy Manual Section 3.4-114. The contingency provision would be exercised in the event there is an increase in the projected services needed for the clients being served.

Health Care Agency requests that the Board approve the Agreements as referenced in the Recommended Actions.

#### **FINANCIAL IMPACT:**

Appropriations for this Agreement are included in the FY 2019-20 Budget and will be included in the budgeting process for future years.

Should services need to be reduced or terminated due to lack of funding, the Agreements contain language that allows the Health Care Agency to give a 30-day notice to either terminate or renegotiate the level of services to be provided. The notice will allow the Health Care Agency adequate time to transition or terminate services to clients, if necessary.

#### **STAFFING IMPACT:**

N/A

#### **ATTACHMENT(S):**

Attachment A - Master Agreement for Provision of Adult Mental Health Psychiatric Skilled Nursing Facility Services between County of Orange and various providers

Attachment B - Agreement for Provision of Adult Mental Intensive Residential Services between County of Orange and Anne Sippi Clinic Treatment Group

Attachment C - Redline Version to Attachment A

Attachment D - Redline Version to Attachment B  
Attachment E - Contract Summary to Attachment A  
Attachment F - Contract Summary to Attachment B