

1 AGREEMENT FOR PROVISION OF  
2 SCHOOL-BASED GANG PREVENTION SERVICES  
3 BETWEEN  
4 COUNTY OF ORANGE  
5 AND  
6 WAYMAKERS  
7 JULY 1, 2018 THROUGH JUNE 30, 2021  
8

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

16 WITNESSETH:  
17

18 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of School-Based  
19 Gang Prevention 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, 2018 through June 30, 2021

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

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

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

**Maximum Obligation:**

Period One Maximum Obligation:	\$ 253,100
Period Two Maximum Obligation:	253,100
Period Three Maximum Obligation:	<u>253,100</u>
<b>TOTAL MAXIMUM OBLIGATION:</b>	<b>\$ 759,300</b>

**Basis for Reimbursement:** Actual Cost

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS Number:** 12-673-5729

**CONTRACTOR TAX ID Number:** 95-3167866

**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:** Waymakers  
1221 East Dyer Road, Suite 120  
Santa Ana, California 92705  
Ronnetta Johnson, Executive Director  
[rjohnson@wearewayfinders.org](mailto:rjohnson@wearewayfinders.org)

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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:

4	A. ARRA	American Recovery and Reinvestment Act
5	B. CCC	California Civil Code
6	C. CCR	California Code of Regulations
7	D. CEO	County Executive Office
8	E. CFR	Code of Federal Regulations
9	F. CHPP	COUNTY HIPAA Policies and Procedures
10	G. COI	Certificate of Insurance
11	H. CRN	Crisis Response Network
12	I. DHCS	Department of Health Care Services
13	J. DRS	Designated Record Set
14	K. GAAP	General Accepted Accounting Principles
15	L. HCA	Health Care Agency
16	M. HHS	Health and Human Services
17	N. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
18	O. HSC	California Health and Safety Code
19	P. ISO	Insurance Services Office
20	Q. MHSA	Mental Health Services Act
21	R. NPP	Notice of Privacy Practices
22	S. OIG	Office of Inspector General
23	T. OMB	Office of Management and Budget
24	U. OPM	Federal Office of Personnel Management
25	V. PC	State of California Penal Code
26	W. PEI	Prevention and Early Intervention
27	X. PHI	Protected Health Information
28	Y. PII	Personally Identifiable Information
29	Z. P&P	Policy and Procedure
30	AA. PRA	Public Record Act
31	AB. SIR	Self-Insured Retention
32	AC. SFTS	Safe from the Start
33	AD. TOT	Train the Trainer
34	AE. USC	United States Code
35	AF. VPE	Violence Prevention Education
36	AG. WIC	State of California Welfare and Institutions Code

37 //

## **II. ALTERATION OF TERMS**

1  
2 A. This Agreement, together with Exhibits A, B, and C attached hereto and incorporated herein,  
3 fully expresses the complete understanding of COUNTY and CONTRACTOR with respect to the  
4 subject matter of this Agreement.

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

## **III. ASSIGNMENT OF DEBTS**

9  
10  
11 Unless this Agreement is followed without interruption by another Agreement between the parties  
12 hereto for the same services and substantially the same scope, at the termination of this Agreement,  
13 CONTRACTOR shall assign to COUNTY any debts owing to CONTRACTOR by or on behalf of  
14 persons receiving services pursuant to this Agreement. CONTRACTOR shall immediately notify by  
15 mail each of these persons, specifying the date of assignment, the County of Orange as assignee, and the  
16 address to which payments are to be sent. Payments received by CONTRACTOR from or on behalf of  
17 said persons, shall be immediately given to COUNTY.

## **IV. COMPLIANCE**

18  
19  
20 A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for  
21 the purpose of ensuring adherence to all rules and regulations related to federal and state health care  
22 programs.

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

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

- 32 a. Designation of a Compliance Officer and/or compliance staff.
- 33 b. Written standards, policies and/or procedures.
- 34 c. Compliance related training and/or education program and proof of completion.
- 35 d. Communication methods for reporting concerns to the Compliance Officer.
- 36 e. Methodology for conducting internal monitoring and auditing.
- 37 f. Methodology for detecting and correcting offenses.

1 g. Methodology/Procedure for enforcing disciplinary standards.

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

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

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

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

33 1. For purposes of this Paragraph IV (COMPLIANCE), Covered Individuals includes all  
34 employees, interns, volunteers, contractors, subcontractors, agents, and other persons who provide  
35 health care items or services or who perform billing or coding functions on behalf of  
36 ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem  
37 employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to

1 work more than one hundred sixty (160) hours per year; except that any such individuals shall become  
 2 Covered Individuals at the point when they work more than one hundred sixty (160) hours during the  
 3 calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are  
 4 made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and  
 5 procedures (or CONTRACTOR's own compliance program, code of conduct and related policies and  
 6 procedures if CONTRACTOR has elected to use its own).

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

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

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

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

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

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

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

33 7. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or  
 34 entity is currently excluded, suspended or debarred, or is identified as such after being sanction  
 35 screened. Such individual or entity shall be immediately removed from participating in any activity  
 36 associated with this Agreement. ADMINISTRATOR will determine appropriate repayment from, or  
 37 sanction(s) to CONTRACTOR for services provided by ineligible person or individual.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 17 18 **V. CONFIDENTIALITY**

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

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

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

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

34 B. Prior to providing any services pursuant to this Agreement, all members of the Board of  
35 Directors or its designee or authorized agent, employees, consultants, subcontractors, volunteers and  
36 interns of the CONTRACTOR shall agree, in writing, with CONTRACTOR to maintain the  
37 confidentiality of any and all information and records which may be obtained in the course of providing

1 such services. This Agreement shall specify that it is effective irrespective of all subsequent  
 2 resignations or terminations of CONTRACTOR members of the Board of Directors or its designee or  
 3 authorized agent, employees, consultants, subcontractors, volunteers and interns.

#### 5 **VI. CONFLICT OF INTEREST**

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

#### 15 **VII. COST REPORT**

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

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

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

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

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

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

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

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

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

36 E. If the Cost Report indicates the actual and reimbursable costs of services provided pursuant to  
 37 this Agreement, less applicable revenues and late penalty, are higher than the aggregate of interim

1 monthly payments to CONTRACTOR, COUNTY shall pay CONTRACTOR the difference, provided  
2 such payment does not exceed the Maximum Obligation of COUNTY.

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

5  
6 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and  
7 supporting documentation prepared by \_\_\_\_\_ for the cost report period  
8 beginning \_\_\_\_\_ and ending \_\_\_\_\_ and that, to the best of my  
9 knowledge and belief, costs reimbursed through this Agreement are reasonable and  
10 allowable and directly or indirectly related to the services provided and that this Cost  
11 Report is a true, correct, and complete statement from the books and records of  
12 (provider name) in accordance with applicable instructions, except as noted. I also  
13 hereby certify that I have the authority to execute the accompanying Cost Report.

14  
15 Signed \_\_\_\_\_  
16 Name \_\_\_\_\_  
17 Title \_\_\_\_\_  
18 Date \_\_\_\_\_"

19  
20 **VIII** ~~VII~~. **DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

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

1 at one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or  
2 delegation in derogation of this subparagraph shall be void.

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

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

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

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

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

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

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

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

## 31 **IX. DISPUTE RESOLUTIONS**

32 **A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the**  
33 **dispute concerning a question of fact arising under the terms of this Agreement is not disposed of in a**  
34 **reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be**  
35 **brought to the attention of the COUNTY Purchasing Agency by way of the following process:**  
36

37 **1. CONTRACTOR shall submit to the COUNTY Purchasing Agency a written demand for a**

1 final decision regarding the disposition of any dispute between the Parties arising under, related to, or  
2 involving this Agreement, unless COUNTY, on its own initiative, has already rendered such a final  
3 decision.

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

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

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

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

24  
25 **XVIII. EMPLOYEE ELIGIBILITY VERIFICATION**

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

35 //  
36 //  
37 //

**XIX. EQUIPMENT**

1  
2 A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all  
3 property of a Relatively Permanent nature with significant value, purchased in whole or in part by  
4 ADMINISTRATOR to assist in performing the services described in this Agreement. “Relatively  
5 Permanent” is defined as having a useful life of one year or longer. Equipment which costs \$5,000 or  
6 over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital  
7 Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes and  
8 other taxes, and installation costs, or electronic equipment that costs less than \$600 but may contained  
9 PHI or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not limited to  
10 phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of  
11 Equipment purchased, in whole or in part, with funds paid pursuant to this Agreement shall be  
12 depreciated according to GAAP.

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

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

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

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

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

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



1 this Agreement.

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

4  
5 **XIIX. FACILITIES, PAYMENTS AND SERVICES**

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

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

17  
18 **XIIIX. INDEMNIFICATION AND INSURANCE**

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

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

36 C. CONTRACTOR shall ensure that all subcontractors performing work on behalf of  
37 CONTRACTOR pursuant to this Agreement shall be covered under CONTRACTOR's insurance as an

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

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

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

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

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

23 E. If CONTRACTOR fails to maintain insurance as required in this Paragraph XI  
 24 (INDEMNIFICATION AND INSURANCE) for the full term of this Agreement, such failure shall  
 25 constitute a breach of CONTRACTOR's obligation hereunder and ground for COUNTY to terminate  
 26 this Agreement.

27 F. QUALIFIED INSURER

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

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

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

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

#### H. REQUIRED COVERAGE FORMS

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

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

#### I. REQUIRED ENDORSEMENTS

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

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

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

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

a. An Additional Insured endorsement naming the County of Orange, its elected and

1 appointed officials, officers, agents and employees as Additional Insureds for its vicarious liability.

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

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

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

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

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

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

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

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

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

34 R. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

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

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

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

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

## 21 **XIVXII. INSPECTIONS AND AUDITS**

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

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

36 C. AUDIT RESPONSE  
37

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

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

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

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

20  
21 **XVXIII. LICENSES AND LAWS**

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

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

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

37 //

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

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

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

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

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

- 14           1. ARRA of 2009.
- 15           2. WIC, Division 5, Community Mental Health Services.
- 16           3. WIC, Division 6, Admissions and Judicial Commitments.
- 17           4. WIC, Division 7, Mental Institutions.
- 18           5. HSC, §§1250 et seq., Health Facilities.
- 19           6. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 20           7. CCR, Title 9, Rehabilitative and Developmental Services.
- 21           8. CCR, Title 17, Public Health.
- 22           9. CCR, Title 22, Social Security.
- 23           10. CFR, Title 42, Public Health.
- 24           11. CFR, Title 45, Public Welfare.
- 25           12. USC Title 42. Public Health and Welfare.
- 26           13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 27           14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 28           15. 42 USC §1857, et seq., Clean Air Act.
- 29           16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 30           17. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 31           18. Policies and procedures set forth in Mental Health Services Act.
- 32           19. Policies and procedures set forth in DHCS Letters.
- 33           20. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 34           21. 31USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,  
35 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for  
36 Federal Awards.

37 //

1                   **XVIXIV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

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

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

22  
23                   **XVII XV. MAXIMUM OBLIGATION**

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

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

29  
30                   **XVIII XVI. MINIMUM WAGE LAWS**

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



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

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

8  
9 **XIXXVII. NONDISCRIMINATION**

10 A. EMPLOYMENT

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

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

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

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

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

37 //

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

6           B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not  
7 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities  
8 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental  
9 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender  
10 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the  
11 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights  
12 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division  
13 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the  
14 Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other  
15 pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and  
16 regulations, as all may now exist or be hereafter amended or changed. For the purpose of this  
17 Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one  
18 or more of the factors identified above:

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

28           C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all  
29 participants through a written statement that CONTRACTOR's and/or subcontractor's participants may  
30 file all complaints alleging discrimination in the delivery of services with CONTRACTOR,  
31 subcontractor, and ADMINISTRATOR or COUNTY's Patient Rights Office.

32           1. Whenever possible, problems shall be resolved informally and at the point of service.  
33 CONTRACTOR shall establish an internal informal problem resolution process for participants not able  
34 to resolve such problems at the point of service. Participants may initiate a grievance or complaint  
35 directly with CONTRACTOR either orally or in writing.

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

1 b. Throughout the problem resolution and grievance process, participant rights shall be  
 2 maintained, including access to the Patients' Rights Office at any point in the process. Clients shall be  
 3 informed of their right to access the Patients' Rights Office at any time.

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

6 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply  
 7 with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as  
 8 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended  
 9 (42 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of  
 10 discrimination against qualified persons with disabilities in all programs or activities; and if applicable,  
 11 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together  
 12 with succeeding legislation.

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

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

### 22 **XXXVIII. NOTICES**

23 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements  
 24 authorized or required by this Agreement shall be effective:  
 25

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

29 2. When faxed, transmission confirmed;

30 3. When sent by Email; or

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

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

37 //

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

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

7  
 8 **XXIIX. NOTIFICATION OF DEATH**

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

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

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

19 2. WRITTEN NOTIFICATION

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

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

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

31  
 32 **XXIIX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

36 B. CONTRACTOR shall notify ADMINISTRATOR at least thirty (30) business days in advance  
 37 of any applicable public event or meeting. The notification must include the date, time, duration,

1 location and purpose of public event or meeting. Any promotional materials or event related flyers must  
2 be approved by ADMINISTRATOR prior to distribution.

3  
4 **XXIII~~XXI~~. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

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

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

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

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

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

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

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

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

35 2. Provide auditor or other authorized individuals access to documents via a computer  
36 terminal.

37 //

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

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

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

9 J. CONTRACTOR shall retain all participant, client, and/or patient medical records for seven (7)  
10 years following discharge of the participant, client and/or patient, with the exception of non-  
11 emancipated minors for whom records must be kept for at least one (1) year after such minors have  
12 reached the age of eighteen (18) years, or for seven (7) years after the last date of service, whichever is  
13 longer.

#### 14 ~~XXIV~~XXII. RESEARCH AND PUBLICATION

15 CONTRACTOR shall not utilize information and data received from COUNTY or developed as a  
16 result of this Agreement for the purpose of personal publication.  
17

#### 18 ~~XXV~~XXIII. SEVERABILITY

19 If a court of competent jurisdiction declares any provision of this Agreement or application thereof  
20 to any person or circumstances to be invalid or if any provision of this Agreement contravenes any  
21 federal, state or county statute, ordinance, or regulation, the remaining provisions of this Agreement or  
22 the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain  
23 in full force and effect, and to that extent the provisions of this Agreement are severable.  
24

#### 25 ~~XXVI~~XXIV. SPECIAL PROVISIONS

26 A. CONTRACTOR shall not use the funds provided by means of this Agreement for the following  
27 purposes:  
28

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

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 10. Supplanting current funding for existing services.

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

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

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

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

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

19 5. Purchasing or improving land, including constructing or permanently improving any  
20 building or facility, except for tenant improvements.

21 6. Providing inpatient hospital services or purchasing major medical equipment.

22 7. Satisfying any expenditure of non-federal funds as a condition for the receipt of federal  
23 funds (matching).

24 8. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
25 CONTRACTOR's participants.

26  
27 **XXVII~~XXV~~. STATUS OF CONTRACTOR**

28 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be  
29 wholly responsible for the manner in which it performs the services required of it by the terms of this  
30 Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and  
31 consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the  
32 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR  
33 or any of CONTRACTOR's employees, agents, consultants, or subcontractors. CONTRACTOR  
34 assumes exclusively the responsibility for the acts of its employees, agents, consultants, or  
35 subcontractors as they relate to the services to be provided during the course and scope of their  
36 employment. CONTRACTOR, its agents, employees, consultants, or subcontractors, shall not be

37 //

1 entitled to any rights or privileges of COUNTY's employees and shall not be considered in any manner  
2 to be COUNTY's employees.

3  
4 **XXVIII~~XXVI~~. TERM**

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

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

13  
14 **XXIX~~XXVII~~. TERMINATION**

15 A. Either party may terminate this Agreement, without cause, upon ninety (90) calendar days'  
16 written notice given the other party.

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

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

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

37 //



1 D. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

23 4. If participants are to be transferred to another facility for services, furnish  
24 ADMINISTRATOR, upon request, all participant information and records deemed necessary by  
25 ADMINISTRATOR to effect an orderly transfer.

26 5. Assist ADMINISTRATOR in effecting the transfer of participants in a manner consistent  
27 with participant's best interests.

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

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

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

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

5 G. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be  
6 exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.  
7

8 **XXXXXVIII. THIRD PARTY BENEFICIARY**

9 Neither party hereto intends that this Agreement shall create rights hereunder in third parties  
10 including, but not limited to, any subcontractors or any participants provided services pursuant to this  
11 Agreement.  
12

13 **XXXIXXIX. WAIVER OF DEFAULT OR BREACH**

14 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any  
15 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this  
16 Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any  
17 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this  
18 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 WAYMAKERS

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

7  
8  
9 TITLE: \_\_\_\_\_

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15 COUNTY OF ORANGE

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18 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

19 HEALTH CARE AGENCY

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

25  
26  
27  
28  
29 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

30 DEPUTY

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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.

EXHIBIT A  
TO AGREEMENT FOR PROVISION OF  
SCHOOL-BASED GANG PREVENTION SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
WAYMAKERS  
JULY 1, 2018 THROUGH JUNE 30, 2021

**I. COMMON TERMS AND DEFINITIONS**

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

A. Activity Form means a data collection form used to track each activity in which the group and/or individual participates.

B. Admission means completion of the entry and/or Intake process for program Participants.

C. Assessment means a professional review and Evaluation of an individual’s behavioral health and conditions in order to determine the most appropriate course of services.

D. At Risk means a state of high stressor and low protective factor that would increase likelihood of development of a behavioral health condition.

E. Behavioral Health Conditions means diminished cognitive, emotional, or social abilities, but not to the extent that the criteria for a mental disorder are met.

F. Case Management means the delivery of individual guidance and support services. Case Management services include; but are not limited to, Referrals and Linkages to needed services such as; resources, coaching, and assistance with translation and transportation.

G. Curfew Sweeps means a collaboration of law enforcement agencies that enforce local curfew laws and intervene with student violators.

H. Engagement means the process by which a trusting relationship between a worker and participant is established with the goal to link the participant to appropriate services.

I. Enrichment Activities means activities that are designed to provide appropriate alternatives for youth and serve as an encouragement and/or support for positive progress. Activities may include but are not limited to: Incentives, Soccer Camps, Homework Clubs, and Girls’ Clubs.

J. Enrollment means the data entry of a Participant’s program information into CONTRACTOR’s database for purposes of recording and tracking a Participant’s involvement in the program.

K. Evaluation means the systematic investigation of the value and impact of an intervention or program.

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1 L. Evidence-Based Practice means the range of prevention and intervention services of well  
2 documented effectiveness. An evidence-based practice has quantitative and qualitative data showing  
3 positive outcomes and has been subject to expert/peer review that has determined that a particular  
4 approach or strategy has a significant level of evidence of effectiveness.

5 M. Family Member means any traditional and/or non-traditional support system, significant other,  
6 or natural support designated by the Participant.

7 N. GRIP means a Gang Reduction and Intervention Partnership with the Health Care Agency, the  
8 District Attorney, OC Probation and Police departments to reduce student involvement with the gangs.

9 O. GRIP Response Team means a team that interacts with students/parents to ensure the progress  
10 of an individual and their plans for improvement. The response team participants include: the student,  
11 the School Resource Officer, a District Attorney investigator and a CSP GRIP Case Manager.

12 P. Group Intervention means the delivery of services to more than one individual or family.

13 Q. Intake means the initial meeting between a Participant and a worker to evaluate a Participant's  
14 issue of concern and determine how a program could best meet his/her needs.

15 R. Linkage means when an individual is connected to programs or services through warm hand-  
16 off or Follow-up to ensure connection is made.

17 S. MHSA means the law that provides funding for expanded community mental health services,  
18 also known as "Proposition 63.

19 T. NPP means a document that notifies individuals of uses and disclosures of PHI that may be  
20 made by or on behalf of the health plan or health care provider as set forth in the Health Insurance  
21 Portability and Accountability Act of 1996 (HIPAA).

22 U. Outreach means contact with potential Participants to link them to appropriate behavioral  
23 health and supportive services; which may include media-based activities that educate the community  
24 about services offered and requirements for participation in the program.

25 V. Participant means an individual enrolled in a program who engages in activities aimed at  
26 preventing and/or eliminating the development of Behavioral Health Conditions.

27 W. PHI means individually identifiable health information usually transmitted by electronic media  
28 maintained in any medium as defined in the regulations or for an entity, such as a health plan,  
29 transmitted or maintained in any other medium. It is created or received by a covered entity and related  
30 to the past, present, or future physical or behavioral health condition of an individual, provision of  
31 health care to an individual, or the past, present, or future payment for health care provided to an  
32 individual.

33 X. PII means any information that could be readily used to identify a specific person, including  
34 but not limited to: name, address, telephone number, email address, driver's license number, Social  
35 Security number, bank account information, credit card information, or any combination of data that  
36 could be used to identify a specific person, such as a birth date, zip code, mother's maiden name and  
37 gender.

1 Y. Prevention means the group or individual interventions that occur before the initial onset of a  
2 behavioral health condition. Prevention promotes positive cognitive, social and emotional development  
3 and encourages a state of well-being that allows the individuals to function well in the face of changing  
4 and sometimes challenging circumstances.

5 Z. Program Protocol means the written program description, goals, objectives, and policies  
6 established by CONTRACTOR for the program provided pursuant to this Agreement.

7 AA. Referral means the process of sending an individual from one service to another for health  
8 care, mental health, and/or other support services, or an unsuccessful linkage attempt.

9 AB. Strike Team means a team of participants that include: the student, the parent, the principal of  
10 that school, a Deputy District Attorney, a District Attorney Investigator, a School Resource Officer, a  
11 Probation Officer, the CSP GRIP Program Director, and a CSP GRIP Case Manager.

12 AC. Student Intervention Sessions (Meet-up) means a monthly session with the GRIP Team for  
13 students that require more support or are not responding to weekly case management sessions. Sessions  
14 are intended to monitor student progress and ensure accountability to the agreed upon action plan.

15 AD. Training means the action or method used to transfer skills and/or knowledge to a target  
16 audience.

17 AE. Truancy Sweep means a surprise meeting with the GRIP response team for truant students and  
18 their parents who violate truancy laws.

19 AF. Unduplicated Participant means an individual who is counted only once, despite how many  
20 services the individual is enrolled during the term of the Agreement.

21 AG. Units of Service means the number and/or type of activities the CONTRACTOR will fulfill  
22 during the term of the Agreement.

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**II. BUDGET**

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

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>	<u>TOTAL</u>
<b>ADMINISTRATIVE COSTS</b>				
—Indirect Costs	\$ 23,009	\$ 23,009	\$ 23,009	\$ 69,027
<b>SUBTOTAL</b>	\$ 23,009	\$ 23,009	\$ 23,009	\$ 69,027
<b>ADMINISTRATIVE COSTS</b>				
<b>PROGRAM COSTS</b>				
—Salaries	\$162,881	\$162,881	\$162,881	\$488,643
—Benefits	45,346	45,346	45,346	136,038
—Services and Supplies	21,864	21,864	21,864	65,592
<b>SUBTOTAL</b>	\$230,091	\$230,091	\$230,091	\$690,273
<b>PROGRAM COSTS</b>				
<b>TOTAL GROSS COSTS</b>	\$253,100	\$253,100	\$253,100	\$759,300
<b>REVENUE</b>				
—MHSA	\$253,100	\$253,100	\$253,100	\$759,300
<b>TOTAL REVENUE</b>	\$253,100	\$253,100	\$253,100	\$759,300
<b>MAXIMUM OBLIGATION</b>	\$253,100	\$253,100	\$253,100	\$759,300

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

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>PERIOD THREE</u>	<u>TOTAL</u>
<b>ADMINISTRATIVE COSTS</b>				
—Indirect Costs	\$ 23,009	\$ 36,645	\$ 36,645	\$ 96,299
<b>SUBTOTAL</b>	\$ 23,009	\$ 36,645	\$ 36,645	\$ 96,299
<b>ADMINISTRATIVE COSTS</b>				

1					
2	<b>PROGRAM COSTS</b>				
3	Salaries	\$162,881	\$267,376	\$275,397	\$705,654
4	Benefits	45,346	71,328	73,225	189,899
5	Services and Supplies	21,864	27,751	17,833	67,448
6	<b>SUBTOTAL</b>	<b>\$230,091</b>	<b>\$366,455</b>	<b>\$366,455</b>	<b>\$963,001</b>
7	<b>PROGRAM COSTS</b>				
8					
9	<b>TOTAL GROSS COSTS</b>	<b>\$253,100</b>	<b>\$403,100</b>	<b>\$403,100</b>	<b>\$1,059,300</b>
10					
11	<b>REVENUE</b>				
12	MHSA	\$253,100	\$403,100	\$403,100	\$1,059,300
13	<b>MAXIMUM OBLIGATION</b>	<b>\$253,100</b>	<b>\$403,100</b>	<b>\$403,100</b>	<b>\$1,059,300</b>

14

15 B. BUDGET/STAFFING MODIFICATIONS – CONTRACTOR may request to shift funds

16 between budgeted line items for the purpose of meeting specific program needs or for providing

17 continuity of care to its Participants, by utilizing a Budget/Staffing Modification Request form provided

18 by ADMINISTRATOR. CONTRACTOR shall submit a properly completed Budget/Staffing

19 Modification Request to ADMINISTRATOR for consideration, in advance, which shall include a

20 justification narrative specifying the purpose of the request, the amount of said funds to be shifted, and

21 the sustaining annual impact of the shift as may be applicable to the current contract period and/or future

22 contract periods. CONTRACTOR shall obtain written approval of any Budget/Staffing Modification

23 Request(s) from ADMINISTRATOR prior to implementation by CONTRACTOR. Failure of

24 CONTRACTOR to obtain written approval from ADMINISTRATOR for any proposed Budget/Staffing

25 Modification Request(s) may result in disallowance of those costs.

26 C. FINANCIAL RECORDS – CONTRACTOR shall prepare and maintain accurate and complete

27 financial records of its cost and operating expenses. Such records will reflect the actual cost of the type

28 of service for which payment is claimed. Any apportionment of or distribution of costs, including

29 indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will

30 be made in accordance with GAAP.

31 D. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the

32 Budget Paragraph of this Exhibit A to the Agreement.

33

34 **III. PAYMENTS**

35 ~~— A. COUNTY shall pay CONTRACTOR monthly, in arrears, the provisional amounts of \$21,092~~

36 ~~per month for each period as specified in the Referenced Contract Provisions of the Agreement. All~~

37 ~~payments are interim payments only, and subject to Final Settlement in accordance with the Cost Report~~



~~Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for the actual cost of providing the services hereunder; provided, however, the total of such payments does not exceed COUNTY's Maximum Obligation as specified in the Referenced Contract Provisions of the Agreement and, provided further, CONTRACTOR's costs are reimbursable pursuant to COUNTY, state, and federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices for any month for which the provisional amount specified above has not been fully paid.~~

"A. COUNTY shall pay CONTRACTOR monthly, in arrears, the provisional amounts of \$33,591 per month for each period as specified in the Referenced Contract Provisions of the Agreement. All payments are interim payments only, and subject to Final Settlement in accordance with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for the actual cost of providing the services hereunder; provided, however, the total of such payments does not exceed COUNTY's Maximum Obligation as specified in the Referenced Contract Provisions of the Agreement and, provided further, CONTRACTOR's costs are reimbursable pursuant to COUNTY, state, and federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices for any month for which the provisional amount specified above has not been fully paid."

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

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

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

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

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

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

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

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

#### 8 9 **IV. REPORTS**

##### 10 **A. FISCAL**

11 1. CONTRACTOR shall submit monthly Expenditure and Revenue Reports to  
12 ADMINISTRATOR. These reports shall be on a form acceptable to, or provided by,  
13 ADMINISTRATOR and shall report actual costs and revenues for CONTRACTOR's program described  
14 in the Services Paragraph of this Exhibit A to the Agreement. Any changes, modifications, or  
15 deviations to any approved budget line item must be approved in advance and in writing by  
16 ADMINISTRATOR and annotated on the monthly Expenditure and Revenue Report, or said cost  
17 deviations may be subject to disallowance. Such reports shall be received by ADMINISTRATOR no  
18 later than twenty (20) calendar days following the end of the month being reported.

19 2. CONTRACTOR shall submit Year-End Projection Reports to ADMINISTRATOR. These  
20 reports shall be on a form acceptable to, or provided by, ADMINISTRATOR and shall report  
21 anticipated year-end actual costs and revenues for CONTRACTOR's program described in the Services  
22 Paragraph of this Exhibit A to the Agreement. Such reports shall include actual monthly costs and  
23 revenue to date and anticipated monthly costs and revenue to the end of the fiscal year, and shall include  
24 a projection narrative justifying the year-end projections. Year-End Projection Reports shall be  
25 submitted in conjunction with the Monthly Expenditure and Revenue Reports.

26 B. STAFFING REPORT – CONTRACTOR shall submit monthly Staffing Reports to  
27 ADMINISTRATOR. CONTRACTOR's reports shall contain required information, and be on a form  
28 acceptable to, or provided by ADMINISTRATOR. CONTRACTOR shall submit these reports no later  
29 than twenty (20) calendar days following the end of the month being reported.

30 C. PROGRAMMATIC – CONTRACTOR shall submit monthly Programmatic reports to  
31 ADMINISTRATOR. These reports shall be in a format approved by ADMINISTRATOR and shall  
32 include but not limited to, descriptions of any performance objectives, outcomes, and or interim findings  
33 as directed by ADMINISTRATOR. CONTRACTOR shall be prepared to present and discuss the  
34 programmatic reports at the monthly meetings with ADMINISTRATOR, to include whether or not  
35 CONTRACTOR is progressing satisfactorily and if not, specify what steps are being taken to achieve  
36 satisfactory progress. Such reports shall be received by ADMINISTRATOR no later than twentieth  
37 (20th) calendar day following the end of the month being reported.

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

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

7  
8 **V. SERVICES**

9 **A. FACILITIES**

10 1. CONTRACTOR shall maintain facility/(ies) for the provision of School-Based Gang  
11 Prevention services described herein at the following location(s), or any other location approved, in  
12 advance, in writing, by ADMINISTRATOR. The facility shall include space to support the services  
13 identified within the Agreement.

14  
15 1221 East Dyer Road, Suite 120  
16 Santa Ana, CA 92705  
17

18 2. CONTRACTOR shall maintain regularly scheduled service hours, Monday through Friday  
19 8:00 a.m. – 5:00 p.m. throughout the year, and maintain the capability to provide services in the evening  
20 hours and on weekends in order to accommodate Participants unable to participate during regular  
21 business hours. CONTRACTOR’s holiday schedule shall be consistent with COUNTY’s holiday  
22 schedule unless otherwise approved in advance and in writing by ADMINISTRATOR.

23 3. CONTRACTOR shall also provide services in community-based facilities including but not  
24 limited to school sites and centers throughout all regional areas of COUNTY, when appropriate for more  
25 effective provision of services to the participant.

26 **B. SCHOOL-BASED GANG PREVENTION SERVICES**

27 1. CONTRACTOR shall provide Gang Prevention services to 4th through 8th grade youth  
28 who display signs of being at risk for gang activity and their families. GRIP schools selected for service  
29 include sites with high levels of truancy, discipline issues and gang proximity. Gang prevention  
30 services include case management services to youth who are enrolled based on individual rates of  
31 truancy, disciplinary issues, and poor academic performance in comparison to other students at the  
32 school site. The District Attorney leads the GRIP collaborative in six (6) cities, which include, but are  
33 not limited to: Stanton, Buena Park, Orange, Santa Ana, San Juan Capistrano and San Clemente.  
34 Thirty-nine (39) schools have been identified as having the need for Case Management services.

35 2. CONTRACTOR’s program shall include, but is not limited to, provision of the following  
36 service components:

37 a. Case Management Sessions shall be conducted for identified high-risk Participants.

1 Incoming referrals for case management shall be screened appropriately to ensure enrolled Participants  
 2 meet the need for services. Case Management services shall be supportive services designed to develop  
 3 coping skills, build resiliency, reduce risk factors and empower the students and their families.  
 4 Supportive services may include but not be limited to strategies and interventions such as case  
 5 management, student intervention sessions, mentoring, curriculum-based workshop groups and  
 6 presentations related to gang prevention, skills building and enrichment activities.

7 b. Curriculum Groups shall include Self Esteem/Gang Curriculum material provided to  
 8 4th through 8th grade students at each GRIP school who are identified as being at-risk of truant or  
 9 problematic behaviors. Identified students shall be enrolled in group sessions.

10 c. Strike Team Meetings shall be conducted twice a year for each of the six (6) identified  
 11 GRIP cities. Strike Teams shall conduct meetings at local law enforcement sites and institute family  
 12 behavioral contracts.

13 d. Truancy and Curfew Sweeps shall be conducted in partnership with GRIP response  
 14 teams and local law enforcement, and shall focus on the proximity of selected GRIP school sites.

15 e. Faculty Workshops shall be conducted at each selected school site to educate faculty on  
 16 the expectations of the program as well as the presence of GRIP staff.

17 f. Enrichment Activities shall promote positive alternatives and support encouragement of  
 18 goal setting. Activities shall include, but are not limited to: Girls' Clubs, Soccer Clubs, Homework  
 19 Clubs, and other youth involved activities.

20 5. CONTRACTOR shall incorporate applicable Evidence-Based Practices, or promising  
 21 practices, in development of curriculums and interventions for the purpose of meeting goals and  
 22 objectives.

23 6. CONTRACTOR shall make every reasonable effort to accommodate Participants'  
 24 developmental, cultural and linguistic needs. In the event that such needs cannot be immediately met,  
 25 CONTRACTOR shall seek assistance from other community resources. CONTRACTOR shall obtain  
 26 Participants' consent prior to linking or transferring Participants to another service provider or  
 27 community resources.

28 7. CONTRACTOR shall clearly establish written standards/guidelines on how inter- and intra-  
 29 agency referrals will be managed. These standards/guidelines shall be approved by ADMINISTRATOR  
 30 prior to implementation.

31 8. CONTRACTOR shall actively collaborate, coordinate, and integrate the services provided  
 32 under the Agreement with COUNTY'S applicable programs and/or per request of ADMINISTRATOR.

33 9. CONTRACTOR shall when applicable, actively engage and promote interested Participants  
 34 in becoming volunteers and provide them with necessary support and opportunities to apply knowledge  
 35 and skills learned for the benefits of the Participants and the community.

36 ~~C. UNITS OF SERVICE~~

37 ~~CONTRACTOR shall achieve, track, and report, at a minimum, the following units of service:~~

UNIT CATEGORIES	ANNUAL UNITS OF SERVICES
Total Participants	400
Case Management Sessions	6,000
Curriculum Groups	161
Strike Team Meetings	12
Truancy Sweeps	6
Curfew Sweeps	2
Faculty Workshops	36
Enrichment Activities	57

“C. UNITS OF SERVICE

CONTRACTOR shall achieve, track, and report, at a minimum, the following units of service:

UNIT CATEGORIES	ANNUAL UNITS OF SERVICES
Total Participants	600
Case Management Sessions	9,000
Curriculum Groups	161
Strike Team Meetings	20
Truancy Sweeps	6
Curfew Sweeps	2
Faculty Workshops	39
Enrichment Activities	100”

D. OUTCOME MEASURES

1. CONTRACTOR shall track and implement ADMINISTRATOR approved outcome measures across all services. Outcome measures shall measure program impact on individuals and system levels in respect to targeted populations. Outcomes to be measured shall include, but are not limited to: academic performance, global health, family functioning, and may include other student level/parent level changes.

2. CONTRACTOR shall be responsible for measuring and reporting outcome data on which priority populations are being reached, how the program is contributing to Participants’ Behavioral Health Conditions and Referrals and Linkages to other programs as appropriate.

3. CONTRACTOR shall complete all surveys, tools, and pre and post tests for measurement of outcomes of services, as requested by ADMINISTRATOR. Said measurements shall include, but are not limited to, outcome tools, customized surveys, school level attendance data and other measures as requested and deemed appropriate. CONTRACTOR shall measure and report on the outcomes of services in accordance with the following:

- a. On average, students receiving case management services will have increased school attendance.
- b. On average, students receiving case management services will report an improvement in global health.
- c. On average, parents will report an increase in family functioning.
- d. On average, students receiving case management services will report decreased curfew violations.
- e. On average, students receiving case management services will show improvement in overall grades.

4. CONTRACTOR shall provide the COUNTY with monthly data reports, or as needed upon request of ADMINISTRATOR.

5. CONTRACTOR shall, on an ongoing basis and in partnership with ADMINISTRATOR, develop, modify, and incorporate different and/or additional outcome measurements, as approved by ADMINISTRATOR.

6. CONTRACTOR shall conduct on-going evaluations of the program and provide analysis to ADMINISTRATOR on a regular basis and in a format approved by ADMINISTRATOR.

7. CONTRACTOR shall collect data including demographics such as age groups, race and ethnicity, and culture/community (e.g., veterans, deaf and hard of hearing; Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex).

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

**VI. STAFFING**

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

<u>PROGRAM</u>	<u>FTEs</u>
<del>—Program Director</del>	<del>0.15</del>
<del>—Case Manager II</del>	<del>3.00</del>
<del>TOTAL FTEs</del>	<del>3.15</del>

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

<u>PROGRAM</u>	<u>FTEs</u>
<u>Program Director</u>	<u>0.15</u>

1	<u>Project Coordinator</u>	<u>1.00</u>
2	<u>Case Manager II</u>	<u>4.00</u>
3	<u>TOTAL FTEs</u>	<u>5.15"</u>

4

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

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

19 D. CONTRACTOR shall actively recruit and maintain a large pool of qualified volunteers,  
20 especially those who speak other languages and those whose lives were impacted by Behavioral Health  
21 Conditions and train them to be peer mentors.

22 E. CONTRACTOR is highly encouraged to augment the above paid staff with qualified and  
23 trained volunteers and/or interns upon written approval of ADMINISTRATOR.

24 F. CONTRACTOR shall maintain personnel files for each staff member, both administrative and  
25 programmatic, both direct and indirect, which shall include, but not be limited to, an application for  
26 employment, qualifications for the position, documentation of bicultural/bilingual capabilities (if  
27 applicable), pay rate and evaluations justifying pay increases.

28 G. CONTRACTOR shall establish clear Policy and Procedures pertaining to equipment usage  
29 (e.g., cell phones, texting devices, and computers). The Policy and Procedures shall address at the  
30 minimum the following:

- 31 1. Eligibility and selection criteria;
- 32 2. Staff's on-duty conduct and responsibilities;
- 33 3. Supervision plan of staff and equipment including emergency procedure; and
- 34 4. Confidentiality and records keeping.

35 H. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of  
36 any staffing vacancies that occur during the term of the Agreement.

37 I CONTRACTOR shall notify ADMINISTRATOR, in writing, at least seven (7) days in

1 advance, of any new staffing changes; including promotions, temporary FTE changes and internal or  
2 external temporary staffing assignment requests that occur during the term of the Agreement.

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

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

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

14 //  
15 //  
16 //



1 EXHIBIT B  
 2 TO AGREEMENT FOR PROVISION OF  
 3 SCHOOL-BASED GANG PREVENTION SERVICES  
 4 BETWEEN  
 5 COUNTY OF ORANGE  
 6 AND  
 7 WAYMAKERS  
 8 JULY 1, 2018 THROUGH JUNE 30, 2021  
 9

10 **I. BUSINESS ASSOCIATE CONTRACT**

11 **A. GENERAL PROVISIONS AND RECITALS**

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

17 2. The parties agree that a business associate relationship under HIPAA, the HITECH Act,  
 18 and 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, as it exists now or be hereafter updated with notice to  
 37 CONTRACTOR, and the applicable standards, implementation specifications, and requirements of the

1 Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and  
2 electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement.

3 B. DEFINITIONS

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

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

10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

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

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

15 12. "Secretary" shall mean the Secretary of the Department of Health and Human Services or  
16 his or her designee.

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

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

24 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in  
25 45 CFR § 160.103.

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

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

32 18. "Use" shall have the meaning given to such term under the HIPAA regulations in  
33 45 CFR § 160.103.

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

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

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

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

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

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

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

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

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

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

32 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to  
 33 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,  
 34 and to make information related to such Disclosures available as would be required for COUNTY to  
 35 respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with  
 36 45 CFR § 164.528.

37 //

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

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

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

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

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

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

37 //

1 a. CONTRACTOR does not promptly enter into negotiations to amend this Business  
2 Associate Contract when requested by COUNTY pursuant to this subparagraph C; or

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

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

9 D. SECURITY RULE

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

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

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

26 a. Complying with all of the data system security precautions listed under subparagraphs  
27 E, below;

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

30 c. Providing a level and scope of security that is at least comparable to the level and scope  
31 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 4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or  
35 transmit ePHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same  
36 restrictions and requirements contained in this Subparagraph D of this Business Associate Contract.

37 //

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

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

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

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

34 2. Technical Security Controls

35 a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY  
 36 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
 37 COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which

1 is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the  
2 COUNTY.

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

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

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

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

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

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



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

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

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

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

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

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

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

35 n. Intrusion Detection. All systems involved in accessing, holding, transporting, and  
36 protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,

37 //

1 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a  
2 comprehensive intrusion detection and prevention solution.

3 3. Audit Controls

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

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

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

17 4. Business Continuity/Disaster Recovery Control

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

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

30 5. Paper Document Controls

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

37 //

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

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

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

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

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

## 22 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

32 2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY  
33 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written  
34 notification within 24 hours of the oral notification.

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

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

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

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

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

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

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

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

16          4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in  
 17 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the  
 18 COUNTY.

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

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

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

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

36          9. If the Breach is the fault of CONTRACTOR, CONTRACTOR shall bear all expense or  
 37 other costs associated with the Breach and shall reimburse COUNTY for all expenses COUNTY incurs

1 in addressing the Breach and consequences thereof, including costs of investigation, notification,  
2 remediation, documentation or other costs associated with addressing the Breach.

### 3 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

13 1) The Disclosure is required by law; or

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

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

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

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

26 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as  
27 required by law.

### 28 H. PROHIBITED USES AND DISCLOSURES

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

34 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI  
35 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on  
36 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by  
37 42 USC § 17935(d)(2).

I. OBLIGATIONS OF COUNTY

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

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

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

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

J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

b. CONTRACTOR shall retain no copies of the PHI.

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

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

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EXHIBIT C  
 TO AGREEMENT FOR PROVISION OF  
 SCHOOL-BASED GANG PREVENTION SERVICES  
 BETWEEN  
 COUNTY OF ORANGE  
 AND  
 WAYMAKERS  
 JULY 1, 2018 THROUGH JUNE 30, 2021

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

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

**A. DEFINITIONS**

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

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

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

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

5. "IEA" shall mean the Information Exchange Agreement currently in effect between the SSA and DHCS.

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

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

8. "PI" shall have the meaning given to such term in California Civil Code § 1798.3(a).

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

1 participation with respect to health care providers participating in the program, and statutes or  
 2 regulations that require the production of information, including statutes or regulations that require such  
 3 information if payment is sought under a government program providing public benefits.

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

#### 7 B. TERMS OF AGREEMENT

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

#### 12 2. Responsibilities of CONTRACTOR

13 CONTRACTOR agrees:

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

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

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

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

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

35 3) If the data obtained by CONTRACTOR from COUNTY includes PII,  
 36 CONTRACTOR shall also comply with the substantive privacy and security requirements in the  
 37 CMPPA Agreement between the SSA and the CHHS and in the Agreement between the SSA and



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

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

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

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

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

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

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

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