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**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, ~~2017~~2019 through June 30, ~~2019~~2020

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

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

**Maximum Obligation:**

~~Period One Maximum Obligation: \$ 906,348~~

~~Period Two Maximum Obligation: 906,348~~

TOTAL MAXIMUM OBLIGATION: ~~\$1,812,696~~128,570

**Basis for Reimbursement:** Actual Cost

**Payment Method:** Monthly in Arrears

**CONTRACTOR DUNS Number:** 05-866-6934

**CONTRACTOR TAX ID Number:** 95-3407054

**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: Western Youth Services  
23461 South Pointe Drive, Suite 220  
Laguna Hills, California 92653  
Lorry Leigh Belhumeur, Ph.D., CEO  
lleigh@westernyouthservices.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**

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

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

**III. ASSIGNMENT OF DEBTS**

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

**IV. COMPLIANCE**

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

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

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

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

1 ~~f.~~ f. Methodology for detecting and correcting offenses.

2 ~~g.~~ g. Methodology/Procedure for enforcing disciplinary standards.

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

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

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

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

37 //

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

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

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

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

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

33           6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing  
 34 federal and state funded health care services by contract with COUNTY in the event that they are  
 35 currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency.  
 36 If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,  
 37 //



1 CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY  
2 business operations related to this Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

36 5.- Each Covered Individual attending a group training shall certify, in writing, attendance at  
37 compliance training. ADMINISTRATOR shall provide instructions on completing the training in a

1 group setting while CONTRACTOR shall retain the certifications. Upon written request by  
2 ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

3 E. ~~MEDICAL~~MEDI-CAL BILLING, CODING, AND DOCUMENTATION COMPLIANCE  
4 STANDARDS

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

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

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

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

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

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

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

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

35 //  
36 //  
37 //

**V. CONFIDENTIALITY**

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

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

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

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

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

**VI. ~~COST REPORT~~ CONFLICT OF INTEREST**

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

//  
//

## VII. COST REPORT

1  
2 A. CONTRACTOR shall submit ~~separate Cost Reports for Period One and Period Two, or for a~~  
3 ~~portion thereof,~~ a Cost Report to COUNTY no later than sixty (60) calendar days following ~~the period~~  
4 ~~for which they are prepared or~~ termination of this Agreement. CONTRACTOR shall prepare the  
5 ~~individual and/or consolidated~~ Cost Report in accordance with all applicable federal, state and  
6 COUNTY requirements, GAAP and the Special Provisions Paragraph of this Agreement.  
7 CONTRACTOR shall allocate direct and indirect costs to and between programs, cost centers, services,  
8 and funding sources in accordance with such requirements and consistent with prudent business  
9 practice, which costs and allocations shall be supported by source documentation maintained by  
10 CONTRACTOR, and available at any time to ADMINISTRATOR upon reasonable notice. ~~In the event~~  
11 ~~CONTRACTOR has multiple Agreements for mental health services that are administered by HCA,~~  
12 ~~consolidation of the individual Cost Reports into a single consolidated Cost Report may be required, as~~  
13 ~~stipulated by ADMINISTRATOR. CONTRACTOR shall submit a consolidated Cost Report to~~  
14 ~~COUNTY no later than five (5) business days following approval by ADMINISTRATOR of all~~  
15 ~~individual Cost Reports to be incorporated into a consolidated Cost Report.~~

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

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

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

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

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

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

1 for final settlement to CONTRACTOR ~~for that period.~~ CONTRACTOR shall document that costs are  
 2 reasonable and allowable and directly or indirectly related to the services to be provided hereunder. ~~The~~  
 3 ~~individual and/or consolidated~~ The Cost Report shall be the final financial record for subsequent audits,  
 4 if any.

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

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

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

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

28  
 29 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and  
 30 supporting documentation prepared by \_\_\_\_\_ for the cost report period  
 31 beginning \_\_\_\_\_ and ending \_\_\_\_\_ and that, to the best of my  
 32 knowledge and belief, costs reimbursed through this Agreement are reasonable and  
 33 allowable and directly or indirectly related to the services provided and that this Cost  
 34 Report is a true, correct, and complete statement from the books and records of  
 35 (provider name) in accordance with applicable instructions, except as noted. I also  
 36 hereby certify that I have the authority to execute the accompanying Cost Report.  
 37

1 Signed \_\_\_\_\_  
 2 Name \_\_\_\_\_  
 3 Title \_\_\_\_\_  
 4 Date \_\_\_\_\_"

6 **VIII. DEBARMENT AND SUSPENSION CERTIFICATION**

7 A. CONTRACTOR certifies that it and its principals:

8 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or  
9 voluntarily excluded by any federal department or agency.

10 2. Have not within a three-year period preceding this Agreement been convicted of or had a  
11 civil judgment rendered against them for commission of fraud or a criminal offense in connection with  
12 obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract  
13 under a public transaction; violation of federal or state antitrust statutes or commission of  
14 embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or  
15 receiving stolen property.

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

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

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

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

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

31  
32 **IX. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

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

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

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

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

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

35 C. CONTRACTOR's obligations undertaken pursuant to this Agreement may be carried out by  
 36 means of subcontracts, provided such ~~subcontracts~~ subcontractors are approved in advance, ~~in writing~~ by  
 37 ADMINISTRATOR, meet the requirements of this Agreement as they relate to the service or activity

1 under subcontract, ~~and~~ include any provisions that ADMINISTRATOR may require, and are authorized  
 2 in writing by ADMINISTRATOR prior to the beginning of service delivery.

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

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

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

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

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

## 26 X. EMPLOYEE ELIGIBILITY VERIFICATION

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

37 //



## XI. 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 (1) year or longer. Equipment which costs \$5,000  
6 or over, including freight charges, sales taxes, and other taxes, and installation costs are defined as  
7 Capital Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes  
8 and other taxes, and installation costs, or electronic equipment that costs less than \$600 but may  
9 contained PHI or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not  
10 limited to 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 prior to purchase of  
14 any Equipment with funds paid pursuant to this Agreement. Upon delivery of Equipment,  
15 CONTRACTOR shall forward to ADMINISTRATOR, copies of the purchase order, receipt, and other  
16 supporting 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~~Parties for substantially the same type and scope of services, at the termination of this Agreement  
37 //

1 for any cause, CONTRACTOR shall return to COUNTY all Equipment purchased with funds paid  
2 through this Agreement.

3 H. CONTRACTOR shall maintain and administer a sound business program for ensuring the  
4 proper use, maintenance, repair, protection, insurance, and preservation of COUNTY Equipment.  
5

6 **XII. FACILITIES, PAYMENTS AND SERVICES**

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

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

19 **XIII. INDEMNIFICATION AND INSURANCE**

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

30 B. Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all  
31 required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary  
32 to satisfy COUNTY that the insurance provisions of this Agreement have been complied with.  
33 CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance, and endorsements  
34 on deposit with COUNTY during the entire term of this Agreement. In addition, all subcontractors  
35 performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance  
36 subject to the same terms and conditions as set forth herein for CONTRACTOR.  
37 //

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

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

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

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

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

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

29 F. QUALIFIED INSURER

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

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

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

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence
Automobile Liability including coverage for owned, non-owned, and hired vehicles (4 passengers or less)	\$2,000,000 aggregate \$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made
Professional Liability Insurance	\$1,000,000 per claims made \$1,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence

#### 23 H. REQUIRED COVERAGE FORMS

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

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

#### 28 I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

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

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

26 ~~NO.~~ The Commercial General Liability policy shall contain a "severability of interests" clause  
27 also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

28 ~~O.~~ P. Insurance certificates should be forwarded to the agency/department address listed on the  
29 solicitation.

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

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

37 PS. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If

1 CONTRACTOR does not deposit copies of acceptable ~~COIs~~ Certificate of Insurance and endorsements  
 2 with COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice,  
 3 ~~such failure shall constitute a breach of CONTRACTOR's obligation hereunder and ground for~~  
 4 ~~termination~~ of  
 5 this Agreement ~~by~~ may be in breach without further notice to CONTRACTOR, and COUNTY shall be  
 6 entitled to all legal remedies.

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

10 ~~RU~~. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

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

35 **XIV. INSPECTIONS AND AUDITS**

36 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative  
 37 of the State of California, the Secretary of the United States Department of Health and Human Services,

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

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

#### 14 C. AUDIT RESPONSE

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

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

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

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

### 36 **XV. LICENSES AND LAWS**

37 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout

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

#### 8 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

9 ~~1~~ 1. CONTRACTOR certifies it is in full compliance with all applicable federal and  
 10 State reporting requirements regarding its employees and with all lawfully served Wage and Earnings  
 11 Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the  
 12 term of the Agreement with the County of Orange. Failure to comply shall constitute a material breach  
 13 of the Agreement and failure to cure such breach within sixty (60) calendar days of notice from the  
 14 COUNTY shall constitute grounds for termination of the Agreement.

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

17 a. In the case of an individual ~~contractor~~ CONTRACTOR, his/her name, date of birth,  
 18 social security number, and residence address;

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

22 ~~c. A certification that CONTRACTOR has fully complied with all applicable federal and  
 23 state reporting requirements regarding its employees;~~

24 ~~d. A certification that CONTRACTOR has fully complied with all lawfully served Wage  
 25 and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply.~~

26 ~~2. Failure of CONTRACTOR to timely submit the data and/or certifications required by  
 27 Subparagraphs 1.a., 1.b., 1.c., or 1.d. above, or to comply with all federal and state employee reporting  
 28 requirements for child support enforcement, or to comply with all lawfully served Wage and Earnings  
 29 Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement;  
 30 and failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute  
 31 grounds for termination of this Agreement.~~

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

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



1. ARRA of 2009.

~~2.~~ 2. Trafficking Victims Protection Act of 2000.

~~3.~~ 3. WIC, Division 5, Community Mental Health Services.

~~34.~~ 4. WIC, Division 6, Admissions and Judicial Commitments.

~~45.~~ 5. WIC, Division 7, Mental Institutions.

~~56.~~ 6. HSC, §§1250 et seq., Health Facilities.

~~67.~~ 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.

~~78.~~ 8. CCR, Title 9, Rehabilitative and Developmental Services.

~~89.~~ 9. CCR, Title 17, Public Health.

~~9.~~ 10. CCR, Title 22, Social Security.

~~11.~~ 11. ~~10.~~ CFR, Title 42, Public Health.

~~12.~~ 12. ~~11.~~ CFR, Title 45, Public Welfare.

~~13.~~ 13. ~~12.~~ USC Title 42, Public Health and Welfare.

~~14.~~ 14. ~~13.~~ Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.

~~14.~~ 15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.

~~15.~~ 16. 42 USC §1857, et seq., Clean Air Act.

~~17.~~ 17. ~~16.~~ 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.

~~17.~~ 18. 31 USC 7501.70, Federal Single Audit Act of 1984.

~~19.~~ 19. ~~18.~~ Policies and procedures set forth in Mental Health Services Act.

~~19.~~ 20. Policies and procedures set forth in DHCS Letters.

~~20.~~ 21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.

~~22.~~ 22. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,

~~Uniform Administrative Requirements, Cost Principles, and Audit Requirements for~~

~~Federal Awards.~~

**XVI. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

//

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

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

12  
13 **XVII. MAXIMUM OBLIGATION**

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

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

19  
20 **XVIII. MINIMUM WAGE LAWS**

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

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

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

36 //  
37 //

## XIX. NONDISCRIMINATION

### A. EMPLOYMENT

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

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

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

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

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

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

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

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

11 1. Denying a ~~participant~~ Client or potential ~~participant~~ Client any service, benefit, or  
 12 accommodation.

13 2. Providing any service or benefit to a ~~participant~~ Client which is different or is provided in a  
 14 different manner or at a different time from that provided to other ~~participants~~ Clients.

15 3. Restricting a ~~participant~~ Client in any way in the enjoyment of any advantage or privilege  
 16 enjoyed by others receiving any service and/or benefit.

17 4. Treating a ~~participant~~ Client differently from others in satisfying any admission requirement  
 18 or condition, or eligibility requirement or condition, which individuals must meet in order to be  
 19 provided any service and/or benefit.

20 5. Assignment of times or places for the provision of services.

21 C. COMPLAINT PROCESS — CONTRACTOR shall establish procedures for advising all  
 22 ~~participants~~ Clients through a written statement that CONTRACTOR's and/or subcontractor's  
 23 ~~participants~~ Clients may file all complaints alleging discrimination in the delivery of services with  
 24 CONTRACTOR, subcontractor, and ~~ADMINISTRATOR~~ or COUNTY's Patient Rights Office.

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

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

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

34 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as  
 35 to the findings regarding the alleged complaint and, if not satisfied with the decision, ~~may file an~~  
 36 ~~appeal~~ has the right to request a State Fair Hearing.

37 //

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

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

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

## 17 **XX. NOTICES**

18 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements  
 19 authorized or required by this Agreement shall be effective:  
 20

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

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

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

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

**XXI. NOTIFICATION OF DEATH**

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

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

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

2. WRITTEN NOTIFICATION

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

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

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

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

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

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

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

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1 **XXIII. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

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

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

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

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

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

27 D. CONTRACTOR shall retain all financial records for a minimum of seven (7) years ten (10)  
28 years from the ~~commencement~~ termination of the contract, unless a longer period is required due to legal  
29 proceedings such as litigations and/or settlement of claims.

30 E. CONTRACTOR shall retain all client and/or patient medical records for seven (7)/ten (10)  
31 years following discharge of the participant, client and/or patient.

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

37 //

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

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

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

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

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

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

16 1. Have documents readily available within ~~forty-eight (48)~~ twenty-four (24) hour notice of a  
 17 scheduled audit or site visit.

18 2. Provide auditor or other authorized individuals access to documents via a computer  
 19 terminal.

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

22 HJ. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and  
 23 security of PII and/or PHI. CONTRACTOR shall ~~notify COUNTY immediately by telephone call plus~~  
 24 ~~email or fax,~~ upon the discovery of a Breach of ~~unsecured PHI~~ privacy and/or security of PII and/or PHI  
 25 by CONTRACTOR, notify federal and/or state authorities as required by law or regulation, and copy  
 26 ADMINISTRATOR on such notifications.

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

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

35 ~~XXIII.~~

## 36 XXIV. RESEARCH AND PUBLICATION

37 CONTRACTOR shall not utilize information and/or data received from COUNTY, or arising out



1 of, or developed, as a result of this Agreement for the purpose of personal or professional research, or  
 2 for publication.

3  
 4 XXV.

5 **XXIV. SEVERABILITY**

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

11  
 12 **XXVI. SPECIAL PROVISIONS**

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

- 15 1. Making cash payments to intended recipients of services through this Agreement.
- 16 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications  
 17 and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on  
 18 use of appropriated funds to influence certain federal contracting and financial transactions).
- 19 3. Fundraising.
- 20 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for  
 21 CONTRACTOR's staff, volunteers, ~~or~~ interns, consultants, subcontractors, and members of the Board of  
 22 Directors or governing body.
- 23 5. Reimbursement of CONTRACTOR's members of the Board of Directors or governing  
 24 body for expenses or services.
- 25 6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants,  
 26 subcontractors, and members of the Board of Directors or governing body, or its designee or authorized  
 27 agent, or making salary advances or giving bonuses to CONTRACTOR's staff.
- 28 7. Paying an individual salary or compensation for services at a rate in excess of the current  
 29 Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary  
 30 Schedule may be found at [www.opm.gov](http://www.opm.gov).
- 31 8. Severance pay for separating employees.
- 32 9. Paying rent and/or lease costs for a facility prior to the facility meeting all required building  
 33 codes and obtaining all necessary building permits for any associated construction.
- 34 10. Supplanting current funding for existing services.

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

- 37 1. Funding travel or training (excluding mileage or parking).

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

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

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

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

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

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

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

**XXVII. STATUS OF CONTRACTOR**

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

**XXVIII. TERM**

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

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

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//

## XXIX. TERMINATION

1  
2 A. Either ~~party~~Party may terminate this Agreement, without cause, upon ~~thirty (30)~~ninety (90)  
3 calendar days' written notice given the other ~~party~~Party.

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

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

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

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

### ~~D.~~ CONTINGENT FUNDING

- 31 1. Any obligation of COUNTY under this Agreement is contingent upon the following:
  - 32 a. The continued availability of federal, state and county funds for reimbursement of  
33 COUNTY's expenditures, and
  - 34 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)  
35 approved by the Board of Supervisors.
- 36 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,  
37 terminate or renegotiate this Agreement upon thirty (30) calendar days' written notice given

1 CONTRACTOR. If COUNTY elects to renegotiate this Agreement due to reduced or terminated  
2 funding, CONTRACTOR shall not be obligated to accept the renegotiated terms.

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

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

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

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

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

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

18 5. Assist ADMINISTRATOR in effecting the transfer of ~~participants~~Clients in a manner  
19 consistent with ~~participant's~~Client's best interests.

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

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

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

30 9. Provide written notice of termination of services to each ~~client~~Client being served under  
31 this Agreement, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice  
32 of termination of services must also be provided to ADMINISTRATOR within the fifteen (15)  
33 ~~calendar~~calendars day period.

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

36 //  
37 //



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

3  
4 WESTERN YOUTH SERVICES

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

8  
9  
10 TITLE: \_\_\_\_\_

11  
12  
13  
14  
15  
16 COUNTY OF ORANGE

17  
18  
19 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

20 HEALTH CARE AGENCY

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

28  
29  
30 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

31 DEPUTY

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

EXHIBIT A  
 TO AGREEMENT FOR PROVISION OF  
 OUTREACH AND ENGAGEMENT SERVICES  
 WITH  
 WESTERN YOUTH SERVICES  
 JULY 1, ~~2017~~2019 THROUGH JUNE 30, ~~2019~~2020

**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 Participant.

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 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 Condition 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. Community-Defined Practices means there is evidence that it validates practices that have a community-defined evidence base for effectiveness in achieving mental health outcomes for underserved communities. It also defines a process underway to nationally develop specific criteria by which practices' effectiveness may be documented using community-defined evidence that eventually will allow the procedure to have an equal standing with evidence-based practices currently defined in the peer reviewed literature.

H. Early Intervention means the act of intervening, interfering or interceding at the manifestation of a Behavioral Health Condition, with the intent of measurably improving the condition or to prevent a Behavioral Health Condition from getting worse.

I. Education/Skill Building Workshop/Class means a workshop/class, provided by CONTRACTOR, to two (2) or more Participants (or a number agreed upon in the contract) which has a primary focus of providing information and/or teaching a skill.

J. 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.

//

1 K. Enrollment means the data entry of a Participant's program information into CONTRACTOR's  
2 database for purposes of recording and tracking a Participant's involvement in the program.

3 L. Evaluation means the systematic investigation of the value and impact of an intervention or  
4 program.

5 M. Evidence-Based Practice means the range of treatment and services of well-documented  
6 effectiveness. An evidence-based practice has quantitative and qualitative data showing positive  
7 outcomes and has been subject to expert/peer review that has determined that a particular approach or  
8 strategy has a significant level of evidence of effectiveness.

9 N. Family Member means any traditional and/or non-traditional support system, significant other,  
10 or natural support designated by the Participant.

11 O. Follow-up means ensuring that the Participant has linked to the referred service and/or  
12 successfully transitioned from one service to another.

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

14 Q. Individual Intervention means any strategies or services rendered to a Participant on a  
15 person-to-person level. Examples include, but are not limited to, education, case management,  
16 short-term therapy and life coaching to address individualized goals and objectives.

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

19 S. Linkage means when an individual is connected to programs or services through warm hand-off  
20 or Follow-up to ensure connection is made.

21 T. Media Events means culturally relevant activities conducted by CONTRACTOR which are  
22 coordinated with and publicized by the media, including radio and TV appearances.

23 U. MHSA means the law that provides funding for expanded community mental health services,  
24 also known as "Proposition 63."

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

28 W. Participant means an individual enrolled in a program who engages in activities aimed at  
29 preventing and/or eliminating the development of Behavioral Health Condition.

30 X. PEI means the most recent County of Orange MHSA Prevention and Early Intervention Plan  
31 approved by the Orange County MHSA Steering Committee and Board of Supervisors.

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



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

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

10 AB. Promising practice means programs and strategies that have some quantitative data showing  
 11 positive outcomes over a period of time, but do not have enough research or replication to support  
 12 generalized outcomes. It has an evaluation component/plan in place to move towards demonstration of  
 13 effectiveness; however, it does not yet have evaluation data available to demonstrate positive outcomes.  
 14 [The Association of Maternal and Child Health Programs] cited by California Department of Mental  
 15 Health, PEI Resource Materials

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

18 AD. Short-term individual counseling to Participants means an interpersonal, theory-based process  
 19 of helping persons who are basically psychologically healthy, resolve developmental and situational  
 20 problems. Counseling activities are guided by ethical and legal standards and go through distinct stages  
 21 from initiation to termination. Counseling will be provided by professionally trained counselors or  
 22 interns under supervised practice to individuals who exhibit early signs and symptoms of emotional and  
 23 behavioral issues that without intervention could develop into full-blown mental disorders.

24 AE. Training means the action or method used to transfer skills and/or knowledge to a target  
 25 audience.

26 AF. Triage means a process that constitutes of sorting individuals on a services continuum that is  
 27 based on an established level of risk and need based on screening of Participants.

28 AG. Unduplicated Participant means an individual who is counted only once, despite how many  
 29 services the individual is enrolled during the term of the Agreement.

30 AH. Units of Service mean the number and/or type of activities the CONTRACTOR will fulfill  
 31 during the term of the Agreement.

## 32 II. BUDGET

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

	<u>PERIOD ONE</u>	<u>PERIOD TWO</u>	<u>TOTAL</u>
1			
2	<b>ADMINISTRATIVE COST</b>		
3	— Indirect Costs	\$100,328	\$100,328
4	<b>SUBTOTAL ADMINISTRATIVE COST</b>	\$100,328	\$100,328
5			
6	<b>PROGRAM COST</b>		
7	— Salaries	\$301,166	\$301,166
8	— Benefits	54,291	54,291
9	— Services and Supplies	86,724	86,724
10	— Subcontractors	<u>363,839</u>	<u>363,839</u>
11	<b>SUBTOTAL PROGRAM COST</b>	\$806,020	\$806,020
12			
13	<b>TOTAL GROSS COST</b>	\$906,348	\$906,348
14			
15	<b>REVENUE</b>		
16	— MHSAs	\$906,348	\$906,348
17	<b>TOTAL REVENUE</b>	\$906,348	\$906,348
18			
19	<b>TOTAL MAXIMUM OBLIGATION</b>	\$906,348	\$906,348
20			
21		<u>TOTAL</u>	
22	<u>ADMINISTRATIVE COST</u>		
23	Indirect Costs	\$ 129,844	
24	<u>SUBTOTAL ADMINISTRATIVE COST</u>	\$ 129,844	
25			
26	<u>PROGRAM COST</u>		
27	Salaries	\$ 412,907	
28	Benefits	74,323	
29	Services and Supplies	109,545	
30	Subcontractors	401,952	
31	<u>SUBTOTAL PROGRAM COST</u>	\$ 998,726	
32			
33	<u>TOTAL GROSS COST</u>	\$1,128,570	
34			
35	<u>REVENUE</u>		
36	MHSAs	\$1,128,570	
37	<u>TOTAL REVENUE</u>	\$1,128,570	

TOTAL MAXIMUM OBLIGATION

\$1,128,570

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

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

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

### III. PAYMENTS

A. COUNTY shall pay CONTRACTOR monthly, in arrears, the provisional amount of ~~\$75,529~~94,047 per month ~~for Period One and \$75,529 per month for Period Two~~ 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.

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

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

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

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

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

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

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

26  
27 **IV. REPORTS**

28 **A. FISCAL**

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

37 //

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

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

12 C. PROGRAMMATIC – CONTRACTOR shall submit monthly Programmatic reports to  
 13 ADMINISTRATOR. These reports shall be in a format approved by ADMINISTRATOR and shall  
 14 include but not limited to, descriptions of any performance objectives, outcomes, and or interim findings  
 15 as directed by ADMINISTRATOR. CONTRACTOR shall be prepared to present and discuss the  
 16 programmatic reports at the monthly meetings with ADMINISTRATOR, to include whether or not  
 17 CONTRACTOR is progressing satisfactorily and if not, specify what steps are being taken to achieve  
 18 satisfactory progress. Such reports shall be received by ADMINISTRATOR no later than twentieth  
 19 (20th) calendar day following the end of the month being reported.

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

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

## 27 **V. SERVICES**

### 28 **A. FACILITIES**

29 1. CONTRACTOR shall maintain facility/(ies) for the provision of Outreach and Engagement  
 30 services described herein at the following location(s), or any other location approved, in advance, in  
 31 writing, by ADMINISTRATOR. The facility shall include space to support the services identified  
 32 within the Agreement.

34 Western Youth Services  
 35 23461 South Point Drive, Suite 220  
 36 Laguna Hills, CA 92653

37 //

1 2. CONTRACTOR shall maintain regularly scheduled service hours, Monday through Friday  
 2 8:00 a.m. – 5:00 p.m. throughout the year, and maintain the capability to provide services in the evening  
 3 hours until 8:00 p.m. and on weekends in order to accommodate individuals and families unable to  
 4 participate during regular business hours. CONTRACTOR's holiday schedule shall be consistent with  
 5 COUNTY's holiday schedule unless otherwise approved in writing by ADMINISTRATOR.

6 3. CONTRACTOR shall provide Outreach and Engagement services in the southern region(s)  
 7 and should provide the majority of the services out in the field within the communities that the  
 8 CONTRACTOR is serving. CONTRACTOR shall make every reasonable effort to provide at least  
 9 seventy-five (75) percent of all group activities throughout the county at community locations other than  
 10 the designated facility. Other locations may include, but not be limited to, homes, schools, apartment  
 11 complexes, community and senior centers, religious organizations (mosques, churches, temples, etc.),  
 12 parks, grocery stores, business locations, coffee shops, laundromats, health fairs, shelters, gathering  
 13 places for the homeless, hospitals and other community locations appropriate for the provision of  
 14 services.

#### 15 B. OUTREACH AND ENGAGEMENT SERVICES

16 1. CONTRACTOR shall provide Outreach and Engagement Services to residents of all ages  
 17 in the southern region of Orange County as designated by the ADMINISTRATOR. Services will be  
 18 designed to prevent the development of mental health conditions or intervene early in their  
 19 manifestation to prevent conditions from becoming worse. Specifically, services shall be designed to  
 20 reach individuals who are hard to reach in traditional ways because of cultural or linguistic barriers.  
 21 These may include but not be limited to: children, transitional age youth, adults, older adults;  
 22 Participants from social services or juvenile justice system; persons on probation; monolingual non-  
 23 English speakers; recent immigrants; refugees; homeless individuals; deaf and hard of hearing  
 24 individuals; lesbian, gay, bisexual and transgender, questioning, and intersex (LGBTQI).

25 2. CONTRACTOR shall provide comprehensive community outreach and engagement  
 26 services to promote awareness about mental health issues, build resiliency and protective factors; and  
 27 reduce risk factors, stressors and stigma related to mental illness; and increase support through,  
 28 information and resources in the community. CONTRACTOR shall disseminate mental health  
 29 information using a variety of methods such as face-to-face contacts in individual and/or group formats,  
 30 a toll-free telephone number, a website and/or social networking site(s).

#### 31 3. OUTREACH SERVICES

32 Outreach activities shall raise awareness and educate the community regarding mental health  
 33 issues and available services and resources. CONTRACTOR shall focus on building rapport and trust  
 34 with individuals who may not be aware of available behavioral health services and would otherwise be  
 35 unserved or under served. CONTRACTOR shall utilize traditional and nontraditional outreach  
 36 methods/strategies to raise awareness, educate and reach individuals including but not limited to:

37 a. Public/Community Events Outreach: Events that are organized by other entities where

1 the public can attend and receive information about available services (i.e., health fairs, community  
2 festivals).

3 b. Contractor Events: Events organized by the CONTRACTOR, typically on a much  
4 smaller scale than a Public Event (i.e., setting up a table at a location in the community where staff is  
5 available to provide information and Referrals) and include:

6 1) Door-to-Door Outreach: CONTRACTOR staff or volunteers going door-to-door  
7 canvassing a neighborhood or apartment complex.

8 2) Street Outreach: CONTRACTOR staff or volunteers reaching out and providing  
9 information to people in the community at locations they frequent (i.e., grocery stores, laundromats, bus  
10 stops, religious organizations, schools, gathering places for the homeless, shelters, a street corner, etc.).

11 3) Other Outreach Events: CONTRACTOR staff or volunteers conducting  
12 presentations to community organizations, schools, physician groups, parent groups, other behavioral  
13 health programs, etc., to promote the program and community services and resources. These events also  
14 include CONTRACTOR staff or volunteers organizing smaller health fairs and community events to  
15 educate and raise awareness in the community.

#### 16 4. ENGAGEMENT SERVICES

17 CONTRACTOR shall conduct engagement services including screening and assessment,  
18 individual interventions, as well as case management and resource development for those individuals  
19 with greater needs. CONTRACTOR shall include evidence-based, promising and community defined  
20 practices and may be presented in individual, group or family formats. Activities shall be culturally and  
21 linguistically appropriate and will be facilitated in the community. CONTRACTOR shall conduct the  
22 following engagement activities:

23 a. Individual Interventions: Include strategies or services rendered to a Participant on a  
24 person-to-person level that include but are not limited to crisis intervention, individual client education,  
25 individual skill development (e.g., coping skills, stress management techniques, job skills development,  
26 etc.), needs assessment, wellness/case management service plan development and follow up, short-term  
27 counseling services and life coaching to address individualized goals and objectives.

28 b. Educational and Skills Building Workshops/Presentations: A meeting of two (2) or  
29 more Participants which has a focus of providing information and/or teaching a skill on topics which  
30 include, but are not limited to, the signs and symptoms of mental health conditions, stress and anger  
31 management, domestic violence, grief and loss, building protective factors, substance abuse, time  
32 management and stigma reduction, etc. These classes shall include age-relevant topics, including but  
33 not limited to, parenting, transition from childhood to adulthood, conflict resolution, relationship  
34 building, job skills development, and navigating behavioral health systems.

35 c. Support Group: A meeting/group, consisting of two (2) or more Participants that allow  
36 them to interact/provide support for each other and/or receive short-term counseling. Socialization or  
37 //

1 support groups can be facilitated by clinicians, staff, volunteers, or Participants for the purpose of  
 2 reducing isolation and depression and promoting mutual support, socialization, and connectedness.

3 d. Referrals and Linkages: A service is considered a referral when a Participant receives  
 4 program and contact information for services or programs (health care, behavioral health, and/or other  
 5 support services). Linkage is when a Participant is connected to services through a warm hand-off or  
 6 follow-up to ensure the connection was made. CONTRACTOR shall obtain Participants' consent prior  
 7 to linking or transferring Participants to another service provider or community resources.

8 5. TRIAGE SYSTEM for ENGAGEMENT: CONTRACTOR shall utilize a Triage System  
 9 that constitutes of a services continuum that is based on an established level of risk based on screening  
 10 of Participants.

11 a. Level I shall include Participants identified with having the lowest risk or need for  
 12 resources and/or mental health services.

13 b. Level II shall include Participants who obtain a risk screening score indicating mild to  
 14 moderate acuity levels and in need of more intensive services than Level I provides.

15 c. Level III shall include Participants who obtain a risk screening score indicating  
 16 moderate to high acuity levels and in need of more intensive services than Level II provides.

17 d. Participants in Levels II and III will be enrolled and an intake will be completed.

18 e. Assessment of risk factors associated with the development of a behavioral health  
 19 condition or the presence of early signs of emotional or, behavioral health issues, or co-occurring  
 20 disorders must be completed for Participants in Levels II and III. Additionally, a Clinical Assessment  
 21 must be completed for Participants in Level III.

22 f. A valid consent to services shall be obtained from Participants in Levels II and III.

23 g. An individualized Wellness Plan that includes identification of areas of strengths,  
 24 support systems, and any other protective factors, Participant-centered goals, objectives, and specific  
 25 strategies must be completed for Participants in Levels II and III.

26 h. Participants in Levels II and III shall receive case management services that will  
 27 include coordination to monitor ongoing progress toward set Wellness Plan goals and objectives, and  
 28 update the wellness plan as deemed appropriate and coordination of collateral support services.

29 i. Participants in Level III must receive appropriate clinical intervention such as mental health  
 30 counseling and clinical case management.

31 6. CONTRACTOR shall provide a toll-free number, and a website and/or social networking  
 32 site to promote access to outreach and engagement services. CONTRACTOR shall maintain a main  
 33 phone number that is staffed during all open hours of operation by culturally competent staff members  
 34 who are able to assess the callers' needs and schedule an appropriate outreach and engagement response  
 35 within a 24 hour period during business hours of operation.

### 36 7. TRANSPORTATION SERVICES

37 //



CONTRACTOR shall provide transportation support that includes utilizing agency-owned and operated vans/vehicles, and bus passes or gas vouchers to assist Participants in meeting goals and objectives as set forth in the individualized wellness plans.

8. CONTRACTOR shall develop and distribute behavioral health materials, which may include but not be limited to brochures, pamphlets, handouts, and fact sheets to individuals, groups and organizations.

9. CONTRACTOR shall customize presentation topics to appeal to distinct audiences such as children, youth, adults, older adults, persons with limited English proficiency, veterans, the deaf and hard of hearing, and LGBTQI. Presentation topics shall at a minimum include: signs and symptoms of commonly diagnosed behavioral health disorders including co-occurring disorders across a lifespan, common treatment strategies and community resources, stress and anger management, stigma reduction and other relevant behavioral health and wellness relevant topics.

10. CONTRACTOR shall make every reasonable effort to accommodate Participants' developmental, cultural and linguistic needs. In the event that such needs cannot be immediately met, CONTRACTOR shall seek assistance from other Outreach and Engagement Service providers, community resources or COUNTY.

11. CONTRACTOR shall actively collaborate, coordinate, and integrate preventive and early intervention services with other Outreach and Engagement service providers, the COUNTY, and community-based organizations to meet the needs of the Participants and the community and include regular communication and collaboration to manage community needs.

#### C. UNITS OF SERVICE

CONTRACTOR shall achieve, track and record at a minimum, the following units of service.

<u>Units of Service</u>	<u>Annual Contracted Units</u>
<u>Outreach</u>	
<u>Contacts</u>	<u>20,000</u>
<u>Events</u>	<u>1,200</u>
<u>Engagement</u>	<u>16,000</u>
<u>Units of Service</u>	<u>Annual Contracted Units</u>
<u>Outreach</u>	
<u>Contacts</u>	<u>25,000</u>
<u>Events</u>	<u>1,500</u>
<u>Engagement</u>	<u>20,000</u>

#### D. OUTCOME MEASURES

1. CONTRACTOR shall complete all surveys, tools and pre/post tests for measurement of outcomes of services, as requested by the ADMINISTRATOR. Measures may include, but are not

1 limited to, the PROMIS Global Mental Health, Personal Growth Initiative Scale-II (PGIS-II), ),  
2 Substance Abuse & Mental Health Screening Tool (SAMHST) follow up measures, Educational  
3 Feedback Survey and Participant Satisfaction Survey.

4 2. CONTRACTOR shall strive to meet the following outcome measure goals for their  
5 program and applicable to the population being served:

6 a. On average, Participants will report a significant improvement in quality of life.

7 b. On average, Participants will demonstrate a significant increase in behavioral health  
8 competencies in at least one area.

9 c. On average, Participants will demonstrate a significant decrease in the severity of  
10 behavioral health symptoms.

11 d. A minimum of thirty (30) percent of referrals will result in a linkage to a supportive  
12 service.

13 3. CONTRACTOR shall track and implement ADMINISTRATOR approved outcome  
14 measures across all services. Outcome measures shall include, but not limited to, the increase in  
15 awareness and knowledge about behavioral health conditions, increase in knowledge about community  
16 resources available to help with behavioral health and co-occurring issues, improvement in quality of  
17 life, and service satisfaction.

18 4. CONTRACTOR shall utilize ADMINISTRATOR approved forms to collect pertinent data,  
19 which would be entered and analyzed for Participant’s level of satisfaction, program management, and  
20 quality improvement purposes. In addition, CONTRACTOR shall utilize any data collection systems  
21 for tracking Participant enrollment, demographics, trends, and service utilization.

22 5. CONTRACTOR shall develop a system to track and record the following demographics:  
23 number of individuals served based on age groups; race and ethnicity; primary language; individuals  
24 who identify as LGBTQI; veterans; and others such as hearing impaired.

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

28 7. CONTRACTOR shall provide ADMINISTRATOR with monthly data reports, or as needed  
29 upon request of ADMINISTRATOR.

30 8. CONTRACTOR shall conduct on-going evaluations of the program and provide analysis to  
31 ADMINISTRATOR on a regular basis and in a format agreeable to ADMINISTRATOR

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

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

## 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>0.38</del>
<del>— Evaluator</del>	<del>0.15</del>
<del>— Licensed Clinician/Clinical Supervisor</del>	<del>0.50</del>
<del>— Trainer</del>	<del>4.50</del>
<del>— Volunteer Coordinator</del>	<del>0.10</del>
<del>— Administrative Specialist</del>	<del>0.50</del>
<del>— Clinical Director</del>	<del>0.01</del>
<del>Administrative Assistant</del>	<del>0.60</del>
<del>— Subcontractor</del>	<del>5.71</del>
<del>TOTAL FTEs</del>	<del>12.45</del>
<u>PROGRAM</u>	<u>FTE</u>
Program Director	0.50
Program Supervisor	0.50
Associate Clinical Director	0.03
Licensed Clinician/Clinical Supervisor	1.00
Trainers	4.50
Administrative Specialist	1.00
Administrative Assistant	1.00
Volunteer Coordinator	0.10
<u>SUBTOTAL PROGRAM FTE</u>	<u>8.63</u>
<u>SUBCONTRACTORS</u>	<u>6.58</u>
<u>GRAND TOTAL FTE</u>	<u>15.21</u>

B. CONTRACTOR shall ensure that staff who provides Outreach and Engagement Services is trained to provide services such as: street and door-to-door outreach, case management, support group facilitation, and group education facilitation and trained to meet the needs specific to the program's target populations.

C. CONTRACTOR shall make its best effort to include bilingual/bicultural services to meet the diverse needs of the community threshold languages as determined by COUNTY. Whenever possible,

1 bilingual/bicultural staff should be retained. Any staffing vacancies occurring at a time when bilingual  
 2 and bicultural composition of the staffing does not meet the above requirement must be filled with  
 3 bilingual and bicultural staff unless ADMINISTRATOR consents, in writing, to the filling of those  
 4 positions with non-bilingual staff. Salary savings resulting from such vacant positions may not be used  
 5 to cover costs other than salaries and employees benefits unless otherwise authorized in writing, in  
 6 advance, by ADMINISTRATOR.

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

14 E. CONTRACTOR is highly encouraged to augment the above paid staff with qualified and  
 15 trained volunteers and/or interns upon written approval of ADMINISTRATOR. CONTRACTOR shall  
 16 provide ongoing supervision to volunteers and/or interns consistent with the prevailing educational and  
 17 practice standards or as specified by ADMINISTRATOR.

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

22 G. CONTRACTOR shall establish clear Policy and Procedures pertaining to staff's work location  
 23 options (i.e. office vs. field/home) and equipment usage (e.g., cell phones, texting devices, and  
 24 computers). The Policy and Procedures shall address at the minimum the following:

- 25 1. Eligibility and selection criteria;
- 26 2. Staff's field/home on-duty conduct and responsibilities;
- 27 3. Supervision plan of staff and equipment including emergency procedure; and
- 28 4. Confidentiality and records keeping.

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

31 I. CONTRACTOR shall notify ADMINISTRATOR, in writing, at least seven (7) days in  
 32 advance, of any new staffing changes; including promotions, temporary FTE changes and internal or  
 33 external temporary staffing assignment requests that occur during the term of the Agreement.

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

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

6 L. ADMINISTRATOR shall provide, or cause to be provided, training and ongoing consultation to  
7 CONTRACTOR's staff to assist CONTRACTOR in ensuring compliance with ADMINISTRATOR  
8 Standards of Care practices, Policy and Procedures, documentation standards and any State regulatory  
9 requirements.

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

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EXHIBIT B  
TO AGREEMENT FOR PROVISION OF  
OUTREACH AND ENGAGEMENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
WESTERN YOUTH SERVICES  
JULY 1, ~~2017~~2019 THROUGH JUNE 30, ~~2019~~2020

**I. BUSINESS ASSOCIATE CONTRACT**

A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

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

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

#### 5 B. DEFINITIONS

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

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

##### 12 a. Breach excludes:

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

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

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

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

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

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

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

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

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

35 4. "DRS" shall have the meaning given to such term under the HIPAA Privacy Rule in  
 36 45 CFR § 164.501.

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1 5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in  
2 45 CFR § 160.103.

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

5 7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in  
6 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance  
7 with 45 CFR § 164.502(g).

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

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

13 10. "PHI" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §  
14 160.103.

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

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

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

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

26 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in  
27 45 CFR § 160.103.

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

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

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

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

37 //



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

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

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

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

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

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

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

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

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

35 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to  
 36 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,  
 37 and to make information related to such Disclosures available as would be required for COUNTY to

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

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

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

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

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

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

29 16. The Parties acknowledge that federal and state laws relating to electronic data security and  
30 privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to  
31 provide for procedures to ensure compliance with such developments. The Parties specifically agree to  
32 take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH  
33 Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon  
34 COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY  
35 concerning an amendment to this Business Associate Contract embodying written assurances consistent  
36 with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other  
37 //

1 applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the  
2 event:

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

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

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

11 D. SECURITY RULE

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

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

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

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

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

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

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

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

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

#### 10 E. DATA SECURITY REQUIREMENTS

##### 11 1. Personal Controls

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

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

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

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

##### 37 2. Technical Security Controls

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

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

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

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

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

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

32 g. User IDs and Password Controls. All users must be issued a unique user name for  
33 accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,  
34 or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password  
35 changed upon the transfer or termination of an employee with knowledge of the password, at maximum  
36 within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight  
37 characters and must be a non-dictionary word. Passwords must not be stored in readable format on the

1 computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days.  
 2 Passwords must be changed if revealed or compromised. Passwords must be composed of characters  
 3 from at least three (3) of the following four (4) groups from the standard keyboard:

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

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

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

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

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

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

32 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to  
 33 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY  
 34 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is  
 35 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files  
 36 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as  
 37 website access, file transfer, and E-Mail.

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

### 5 3. Audit Controls

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

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

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

### 19 4. Business Continuity/Disaster Recovery Control

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

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

### 32 5. Paper Document Controls

33 a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR  
 34 creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left  
 35 unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means  
 36 that information is not being observed by an employee authorized to access the information. Such PHI  
 37 //

1 in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in  
2 baggage on commercial airplanes.

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

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

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

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

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

#### 24 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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



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

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

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

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

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

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

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

18 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in  
19 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the  
20 COUNTY.

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

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

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

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

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

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

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

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

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

15 1) The Disclosure is required by law; or

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

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

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

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

28 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as  
 29 required by law.

#### 30 H. PROHIBITED USES AND DISCLOSURES

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

36 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI  
 37 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on

1 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by  
2 42 USC § 17935(d)(2).

3 I. OBLIGATIONS OF COUNTY

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

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

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

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

15 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

37 //

EXHIBIT C  
 TO AGREEMENT FOR PROVISION OF  
 OUTREACH AND ENGAGEMENT SERVICES  
 BETWEEN  
 COUNTY OF ORANGE  
 AND  
 WESTERN YOUTH SERVICES  
 JULY 1, ~~2017~~2019 THROUGH JUNE 30, ~~2019~~2020

**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.

35 //  
36 //  
37 //