

1 CONTRACT FOR PROVISION OF
2 COLLABORATIVE COURTS FULL SERVICE PARTNERSHIP SERVICES
3 BETWEEN
4 COUNTY OF ORANGE
5 AND
6 WAYMAKERS
7 JULY 1, 2020 THROUGH JUNE 30, 2023
8

9 THIS CONTRACT entered into this 1st day of July 2020, (effective date), is by and between the
10 COUNTY OF ORANGE, a political subdivision of State of California (COUNTY) and
11 WAYMAKERS, a California nonprofit corporation, (CONTRACTOR). COUNTY and CONTRACTOR
12 may sometimes be referred to herein as “Party” or collectively as “Parties”. This Contract shall be
13 administered by the Director of the COUNTY’s Health Care Agency or an authorized designee
14 (“ADMINISTRATOR”).
15

16 **W I T N E S S E T H:**
17

18 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Collaborative
19 Courts Full Service Partnership Services described herein to the residents of Orange County; and

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

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

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CONTENTS

1		
2		
3	<u>PARAGRAPH</u>	<u>PAGE</u>
4	Title Page	1
5	Contents	2
6	Referenced Contract Provisions	4
7	I. Acronyms	5
8	II. Alteration of Terms	6
9	III. Assignment of Debts	6
10	IV. Compliance.....	7
11	V. Confidentiality	11
12	VI. Conflict of Interest	11
13	VII. Cost Report.....	12
14	VIII. Debarment and Suspension Certification.....	14
15	IX. Delegation, Assignment and Subcontracts.....	14
16	X. Dispute Resolution.....	16
17	XI. Employee Eligibility Verification	17
18	XII. Equipment	17
19	XIII. Facilities, Payments and Services	18
20	XIV. Indemnification and Insurance.....	19
21	XV. Inspections and Audits	23
22	XVI. Licenses and Laws	24
23	XVII. Literature, Advertisements, and Social Media	25
24	XVIII. Maximum Obligation	26
25	XIX. Minimum Wage Laws.....	26
26	XX. Nondiscrimination.....	27
27	XXI. Notices	29
28	XXII. Notification of Death.....	29
29	XXIII. Notification of Public Events and Meetings	30
30	XXIV. Records Management and Maintenance	30
31	XXV. Research and Publication.....	32
32	XXVI. Revenue.....	32
33	XXVII. Severability.....	33
34	XXVIII. Special Provisions	33
35	XXIX. Status of Contractor.....	34
36	XXX. Term.....	35
37	XXXI. Termination	35

CONTENTS

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

<u>PARAGRAPH</u>	<u>PAGE</u>
XXXII. Third Party Beneficiary	37
XXXIII. Waiver of Default or Breach.....	37
Signature Page	38

EXHIBIT A

I. Common Terms and Definitions	1
II. Budget	10
III. Payments	12
IV. Reports	13
V. Services	14
VI. Staffing.....	20

EXHIBIT B

I. Business Associate Contract.....	1
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EXHIBIT C

I. Personal Information Privacy and Security Contract.....	1
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REFERENCED CONTRACT PROVISIONS

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Term: July 1, 2020 through June 30, 2023

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

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

Period Three means the period from July 1, 2022 through June 30, 2023

Maximum Obligation:

Period One Amount Not to Exceed:	\$ 3,363,535
Period Two Amount Not to Exceed:	3,363,535
Period Three Amount Not to Exceed:	<u>3,363,535</u>
TOTAL AMOUNT NOT TO EXCEED:	\$10,090,605

Basis for Reimbursement: Actual Cost

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 12-673-5729

CONTRACTOR TAX ID Number: 95-3167866

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: WAYMAKERS
1221 East Dyer Road, Suite 120
Santa Ana, CA 92705
Ronneta Johnson, Executive Director
RJohnson@waymakersoc.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 Contract:

1		
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4	A. ARRA	American Recovery and Reinvestment Act of 2009
5	B. BHS	Behavioral Health Services
6	C. CCC	California Civil Code
7	D. CCR	California Code of Regulations
8	E. CEO	County Executive Office
9	F. CFR	Code of Federal Regulations
10	G. CHPP	COUNTY HIPAA Policies and Procedures
11	H. COI	Certificate of Insurance
12	I. CRS	Crisis Residential Services
13	J. CSW	Clinical Social Worker
14	K. DD	Dual Diagnosis
15	L. D/MC	Drug/Medi-Cal
16	M. DHCS	California Department of Health Care Services
17	N. DRS	Designated Record Set
18	O. DSH	Direct Service Hour
19	P. ePHI	Electronic Protected Health Information
20	Q. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
21	R. FSP	Full Service Partnership
22	S. GAAP	Generally Accepted Accounting Principles
23	T. HCA	County of Orange Health Care Agency
24	U. HHS	Federal Health and Human Services Agency
25	V. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
26		Law 104-191
27	W. HSC	California Health and Safety Code
28	X. IRIS	Integrated Records and Information System
29	Y. ISO	Insurance Services Office
30	Z. LCSW	Licensed Clinical Social Worker
31	AA. LPT	Licensed Psychiatric Technician
32	AB. LVN	Licensed Vocational Nurse
33	AC. MFT	Marriage and Family Therapist
34	AD. MHP	Mental Health Plan
35	AE. MHSA	Mental Health Services Act
36	AF. MIHS	Medical and Institutional Health Services
37	AG. NOA	Notice of Action

1	AH. NPI	National Provider Identifier
2	AI. NPP	Notice of Privacy Practices
3	AJ. OIG	Federal Office of Inspector General
4	AK. OMB	Federal Office of Management and Budget
5	AL. OPM	Federal Office of Personnel Management
6	AM. PC	California Penal Code
7	AN. PHI	Protected Health Information
8	AO. PII	Personally Identifiable Information
9	AP. PRA	California Public Records Act
10	AQ. QIC	Quality Improvement Committee
11	AR. SIR	Self-Insured Retention
12	AS. SSA	Social Services Agency
13	AT. TAY	Transitional Age Youth
14	AU. TBS	Therapeutic Behavioral Services
15	AV. USC	United States Code
16	AW. WIC	State of California Welfare and Institutions Code
17	AX. WOC	Wraparound Orange County

18
19 **II. ALTERATION OF TERMS**

20 A. This Contract, together with Exhibit(s) A, B, and C attached hereto and incorporated herein,
21 fully expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject
22 matter of this Contract.

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

27
28 **III. ASSIGNMENT OF DEBTS**

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

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IV. COMPLIANCE

1
2 A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for
3 the purpose of ensuring adherence to all rules and regulations related to federal and state health care
4 programs.

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

8 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
9 compliance program, code of conduct and any compliance related policies and procedures.
10 CONTRACTOR's compliance program, code of conduct and any related policies and procedures shall
11 be verified by ADMINISTRATOR's Compliance Department to ensure they include all required
12 elements by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to
13 this Contract. These elements include:

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

21 3. If CONTRACTOR does not provide proof of its own compliance program to
22 ADMINISTRATOR, CONTRACTOR shall internally comply with ADMINISTRATOR's Compliance
23 Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within
24 thirty (30) calendar days of execution of this Contract a signed acknowledgement that CONTRACTOR
25 will internally comply with ADMINISTRATOR's Compliance Program and Code of Conduct.
26 CONTRACTOR shall have as many Covered Individuals it determines necessary complete
27 ADMINISTRATOR's annual compliance training to ensure proper compliance.

28 4. If CONTRACTOR elects to have its own compliance program, code of conduct and any
29 Compliance related policies and procedures reviewed by ADMINISTRATOR, then CONTRACTOR
30 shall submit a copy of its compliance program, code of conduct and all relevant policies and procedures
31 to ADMINISTRATOR within thirty (30) calendar days of execution of this Contract.
32 ADMINISTRATOR's Compliance Officer, or designee, shall review said documents within a reasonable
33 time, which shall not exceed forty-five (45) calendar days, and determine if contractor's proposed
34 compliance program and code of conduct contain all required elements to the ADMINISTRATOR's
35 satisfaction as consistent with the HCA's Compliance Program and Code of Conduct.
36 ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and
37 CONTRACTOR shall revise its compliance program and code of conduct to meet ADMINISTRATOR's

1 required elements within thirty (30) calendar days after ADMINISTRATOR's Compliance Officer's
2 determination and resubmit the same for review by the ADMINISTRATOR.

3 5. Upon written confirmation from ADMINISTRATOR's compliance officer that the
4 CONTRACTOR's compliance program, code of conduct and any compliance related policies and
5 procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals relative
6 to this Contract are made aware of CONTRACTOR's compliance program, code of conduct, related policies
7 and procedures and contact information for the ADMINISTRATOR's Compliance Program.

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

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

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

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

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

37 //

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

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

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

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

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

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

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

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

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

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

36 1. CONTRACTOR shall ensure completion of Specialized Provider Training by all Covered
37 Individuals relative to this Contract. This includes compliance with federal and state healthcare program

1 regulations and procedures or instructions otherwise communicated by regulatory agencies; including the
2 Centers for Medicare and Medicaid Services or their agents.

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

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

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

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

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

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

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

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

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

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

28 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and
29 participate in the quality improvement activities developed in the implementation of the Quality
30 Management Program.

31 7. CONTRACTOR shall comply with the provisions of the ADMINISTRATOR's Cultural
32 Competency Plan submitted and approved by the state. ADMINISTRATOR shall update the Cultural
33 Competency Plan and submit the updates to the State for review and approval annually. (CCR, Title 9,
34 §1810.410.subds.(c)-(d).

35 F. Failure to comply with the obligations stated in this Compliance Paragraph shall constitute a
36 breach of the Contract on the part of CONTRACTOR and grounds for COUNTY to terminate the
37 Contract. Unless the circumstances require a sooner period of cure, CONTRACTOR shall have thirty

1 (30) calendar days from the date of the written notice of default to cure any defaults grounded on this
2 Compliance Paragraph prior to ADMINISTRATOR’s right to terminate this Contract on the basis of
3 such default.

4
5 **V. CONFIDENTIALITY**

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

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

13 2. CONTRACTOR acknowledges and agrees that it shall be responsible for obtaining written
14 consents for the release of information from all persons served by CONTRACTOR pursuant to this
15 Contract. Such consents shall be obtained by CONTRACTOR in accordance with CCC, Division 1, Part
16 2.6, relating to confidentiality of medical information.

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

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

27
28 **VI. CONFLICT OF INTEREST**

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

37 //

VII. COST REPORT

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

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

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

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

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

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

35 B. The individual and/or consolidated Cost Report shall be the final financial and statistical report
36 submitted by CONTRACTOR to COUNTY, and shall serve as the basis for final settlement to
37 CONTRACTOR. CONTRACTOR shall document that costs are reasonable and allowable and directly

1 or indirectly related to the services to be provided hereunder. The individual and/or consolidated Cost
2 Report shall be the final financial record for subsequent audits, if any.

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

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

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

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

27
28 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and
29 supporting documentation prepared by _____ for the cost report period
30 beginning _____ and ending _____ and that, to the best of my
31 knowledge and belief, costs reimbursed through this Contract are reasonable and
32 allowable and directly or indirectly related to the services provided and that this Cost
33 Report is a true, correct, and complete statement from the books and records of
34 (provider name) in accordance with applicable instructions, except as noted. I also
35 hereby certify that I have the authority to execute the accompanying Cost Report.

36 //
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 Contract been convicted of or had a civil
 11 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 embezzlement,
 14 theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen
 15 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 Contract 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, suspended,
 23 declared ineligible, or voluntarily excluded from participation in such transaction unless authorized by
 24 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.

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 Contract, and COUNTY agrees to an assignment of the Contract, the
3 new owners shall be required under the terms of sale or other instruments of transfer to assume
4 CONTRACTOR's duties and obligations contained in this Contract 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%) of
9 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 this
23 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 Contract in the event COUNTY
33 determines, in its sole discretion, that the assignee is not qualified or is otherwise unacceptable to
34 COUNTY for the provision of services under the Contract.

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

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

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

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

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

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

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

23 24 **X. DISPUTE RESOLUTION**

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

29 1. CONTRACTOR shall submit to the COUNTY Purchasing Agency a written demand for a
30 final decision regarding the disposition of any dispute between the Parties arising under, related to, or
31 involving this Contract, unless COUNTY, on its own initiative, has already rendered such a final
32 decision.

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

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

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

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

16 17 **XI. EMPLOYEE ELIGIBILITY VERIFICATION**

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

27 28 **XII. EQUIPMENT**

29 A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all
30 property of a Relatively Permanent nature with significant value, purchased in whole or in part by
31 ADMINISTRATOR to assist in performing the services described in this Contract. "Relatively
32 Permanent" is defined as having a useful life of one (1) year or longer. Equipment which costs \$5,000 or
33 over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital
34 Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes and
35 other taxes, and installation costs, or electronic equipment that costs less than \$600 but may contained
36 PHI or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not limited to
37 phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of

1 Equipment purchased, in whole or in part, with funds paid pursuant to this Contract shall be depreciated
2 according to GAAP.

3 B. CONTRACTOR shall obtain ADMINISTRATOR's written approval prior to purchase of any
4 Equipment with funds paid pursuant to this Contract. Upon delivery of Equipment, CONTRACTOR
5 shall forward to ADMINISTRATOR, copies of the purchase order, receipt, and other supporting
6 documentation, which includes delivery date, unit price, tax, shipping and serial numbers.
7 CONTRACTOR shall request an applicable asset tag for said Equipment and shall include each
8 purchased asset in an Equipment inventory.

9 C. Upon ADMINISTRATOR's prior written approval, CONTRACTOR may expense to COUNTY
10 the cost of the approved Equipment purchased by CONTRACTOR. To "expense," in relation to
11 Equipment, means to charge the proportionate cost of Equipment in the fiscal year in which it is
12 purchased. Title of expensed Equipment shall be vested with COUNTY.

13 D. CONTRACTOR shall maintain an inventory of all Equipment purchased in whole or in part with
14 funds paid through this Contract, including date of purchase, purchase price, serial number, model and
15 type of Equipment. Such inventory shall be available for review by ADMINISTRATOR, and shall
16 include the original purchase date and price, useful life, and balance of depreciated Equipment cost, if
17 any.

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

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

25 G. Unless this Contract is followed without interruption by another agreement between the Parties
26 for substantially the same type and scope of services, at the termination of this Contract for
27 any cause, CONTRACTOR shall return to COUNTY all Equipment purchased with funds paid through
28 this Contract.

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

31 32 **XIII. FACILITIES, PAYMENTS AND SERVICES**

33 A. CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance
34 with this Contract. COUNTY shall compensate, and authorize, when applicable, said services.
35 CONTRACTOR shall operate continuously throughout the term of this Contract with at least the
36 minimum number and type of staff which meet applicable federal and state requirements, and which are
37 necessary for the provision of the services hereunder.

1 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or
2 supplies as required, ADMINISTRATOR may, at its sole discretion, reduce the Total Maximum
3 Obligation for the appropriate Period as well as the Total Maximum Obligation. The reduction to the
4 Maximum Obligation for the appropriate Period as well as the Total Maximum Obligation shall be in an
5 amount proportionate to the number of days in which CONTRACTOR was determined to be unable to
6 provide services, staffing, facilities or supplies.

7 8 **XIV. INDEMNIFICATION AND INSURANCE**

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

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

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

35 D. All SIRs shall be clearly stated on the COI. Any SIR in an amount in excess of fifty thousand
36 dollars (\$50,000) shall specifically be approved by the CEO/Office of Risk Management upon review of
37 CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is approved,

1 CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s) in this
 2 Contract, agrees to all of the following:

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

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

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

12 E. If CONTRACTOR fails to maintain insurance acceptable to the COUNTY for the full term of
 13 this Contract, the COUNTY may terminate this Contract.

14 F. QUALIFIED INSURER

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

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

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

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

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1	Employers' Liability Insurance	\$1,000,000 per occurrence
2		
3	Network Security & Privacy Liability	\$1,000,000 per claims made
4		
5	Professional Liability Insurance	\$1,000,000 per claims made
6		\$1,000,000 aggregate
7		
8	Sexual Misconduct Liability	\$1,000,000 per occurrence
9		

10 H. REQUIRED COVERAGE FORMS

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

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

15 I. REQUIRED ENDORSEMENTS

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

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

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

25 2. The Network Security and Privacy Liability policy shall contain the following endorsements
26 which shall accompany the COI:

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

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

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

35 K. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving
36 all rights of subrogation against the *County of Orange, its elected and appointed officials,*

37 //

1 *officers, agents and employees*, or provide blanket coverage, which will state ***AS REQUIRED BY***
2 ***WRITTEN CONTRACT.***

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

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

10 N. If CONTRACTOR's Professional Liability, and/or Network Security & Privacy Liability are
11 "Claims -Made" policies, CONTRACTOR shall agree to maintain coverage for two (2) years following
12 the completion of the Contract.

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

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

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

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

24 S. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
25 CONTRACTOR does not deposit copies of acceptable Certificate of Insurance and endorsements with
26 COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice,
27 this Contract may be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled
28 to all legal remedies.

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

32 U. SUBMISSION OF INSURANCE DOCUMENTS

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

34 a. Prior to the start date of this Contract.

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

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

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

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

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

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

14 c. If CONTRACTOR is assessed a late penalty, the amount shall be deducted from
15 CONTRACTOR’s monthly invoice.

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

20 **XV. INSPECTIONS AND AUDITS**

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

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

35 **C. AUDIT RESPONSE**

36 1. Following an audit report, in the event of non-compliance with applicable laws and
37 regulations governing funds provided through this Contract, COUNTY may terminate this Contract as

1 provided for in the Termination Paragraph or direct CONTRACTOR to immediately implement
 2 appropriate corrective action. A CAP shall be submitted to ADMINISTRATOR in writing within thirty
 3 (30) calendar days after receiving notice from ADMINISTRATOR.

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

11 D. CONTRACTOR shall retain a licensed certified public accountant, who will prepare an annual
 12 Single Audit as required by 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR
 13 Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal
 14 Awards. CONTRACTOR shall forward the Single Audit to ADMINISTRATOR within fourteen (14)
 15 calendar days of receipt.

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

20 21 **XVI. LICENSES AND LAWS**

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

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

- 33 1. ARRA of 2009.
- 34 2. Trafficking Victims Protection Act of 2000.
- 35 3. WIC, Division 5, Community Mental Health Services.
- 36 4. WIC, Division 6, Admissions and Judicial Commitments.
- 37 5. WIC, Division 7, Mental Institutions.

- 6. HSC, §§1250 et seq., Health Facilities.
- 7. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
- 8. CCR, Title 9, Rehabilitative and Developmental Services.
- 9. CCR, Title 17, Public Health.
- 10. CCR, Title 22, Social Security.
- 11. CFR, Title 42, Public Health.
- 12. CFR, Title 45, Public Welfare.
- 13. USC Title 42. Public Health and Welfare.
- 14. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
- 15. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
- 16. 42 USC §1857, et seq., Clean Air Act.
- 17. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
- 18. 31 USC 7501.70, Federal Single Audit Act of 1984.
- 19. Policies and procedures set forth in Mental Health Services Act.
- 20. Policies and procedures set forth in DHCS Letters.
- 21. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
- 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.
- 23. 42 CFR, Section 438, Managed Care Regulations.

C. CONTRACTOR shall at all times be capable and authorized by the State of California to provide treatment and bill for services provided to Medi-Cal eligible clients while working under the terms of this Contract.

D. CONTRACTOR shall make every reasonable effort to obtain appropriate licenses and/or waivers to provide Medi-Cal billable treatment services at school or other sites requested by ADMINISTRATOR.

XVII. 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 Contract must be approved at least thirty (30) days in advance and in writing by ADMINISTRATOR before distribution. For the purposes of this Contract, 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 Contract must be approved in advance at least thirty (30) days and in writing by ADMINISTRATOR.

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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 Contract, CONTRACTOR
3 shall develop social media policies and procedures and have them available to ADMINISTRATOR upon
4 reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media used
5 to either directly or indirectly support the services described within this Contract. CONTRACTOR shall
6 comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social media
7 developed in support of the services described within this Contract. CONTRACTOR shall also include
8 any required funding statement information on social media when required by ADMINISTRATOR.

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

11
12 **XVIII. MAXIMUM OBLIGATION**

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

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

18
19 **XIX. MINIMUM WAGE LAWS**

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

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

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

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XX. NONDISCRIMINATION**A. EMPLOYMENT**

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2
3 1. During the term of this Contract, CONTRACTOR and its Covered Individuals (as defined in
4 the "Compliance" paragraph of this Contract) shall not unlawfully discriminate against any employee or
5 applicant for employment because of his/her race, religious creed, color, national origin, ancestry,
6 physical disability, mental disability, medical condition, genetic information, marital status, sex, gender,
7 gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally,
8 during the term of this Contract, CONTRACTOR and its Covered Individuals shall require in its
9 subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for
10 employment because of his/her race, religious creed, color, national origin, ancestry, physical disability,
11 mental disability, medical condition, genetic information, marital status, sex, gender, gender identity,
12 gender expression, age, sexual orientation, or military and veteran status.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 D. PERSONS WITH DISABILITIES – CONTRACTOR and/or subcontractor agree to comply
 35 with the provisions of §504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as
 36 implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended (42
 37 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of

1 discrimination against qualified persons with disabilities in all programs or activities, and if applicable,
 2 as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together
 3 with succeeding legislation.

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

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

13 **XXI. NOTICES**

14 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements
 15 authorized or required by this Contract shall be effective:

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

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

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

31 D. For purposes of this Contract, any notice to be provided by COUNTY may be given by
 32 ADMINISTRATOR.

33 **XXII. NOTIFICATION OF DEATH**

34 A. Upon becoming aware of the death of any person served pursuant to this Contract,
 35 CONTRACTOR shall immediately notify ADMINISTRATOR.
 36
 37

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

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

7 2. WRITTEN NOTIFICATION

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

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

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

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

20
21 **XXIII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

29
30 **XXIV. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

37 //

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

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

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

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

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

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

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

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

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

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

37 //

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

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

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

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

9 1. Have documents readily available within twenty-four (24) hour notice of a scheduled audit
10 or site visit.

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

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

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

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

21
22 **XXV. RESEARCH AND PUBLICATION**

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

26
27 **XXVI. REVENUE**

28 A. CLIENT FEES – CONTRACTOR shall charge, unless waived by ADMINISTRATOR, a fee to
29 Clients to whom billable services, other than those amounts reimbursed by Medicare, Medi-Cal or other
30 third party health plans, are provided pursuant to this Contract, their estates and responsible relatives,
31 according to their ability to pay as determined by the State Department of Health Care Services’
32 “Uniform Method of Determining Ability to Pay” procedure or by any other payment procedure as
33 approved in advance, and in writing by ADMINISTRATOR; and in accordance with Title 9 of the CCR.
34 Such fee shall not exceed the actual cost of services provided. No Client shall be denied services
35 because of an inability to pay.

36 //

37 //

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

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

10 D. OTHER REVENUES – CONTRACTOR shall charge for services, supplies, or facility use by
11 persons other than individuals or groups eligible for services pursuant to this Contract.

12
13 **XXVII. SEVERABILITY**

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

19
20 **XXVIII. SPECIAL PROVISIONS**

21 A. CONTRACTOR shall not use the funds provided by means of this Contract for the following
22 purposes:

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

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

4 8. Severance pay for separating employees.

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

7 10. Supplanting current funding for existing services.

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

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

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

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

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

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

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

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

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

23
24 **XXIX. STATUS OF CONTRACTOR**

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

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XXX. TERM

A. The term of this Contract shall commence as specified in the Referenced Contract Provisions of this Contract or the execution date, whichever is later. This Contract shall terminate as specified in the Referenced Contract Provisions of this Contract unless otherwise sooner terminated as provided in this Contract. 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 Contract on a weekend or holiday may be performed on the next regular business day.

XXXI. TERMINATION

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

B. COUNTY may terminate this Contract immediately, upon written notice, on the occurrence of any of the following events:

1. The loss by CONTRACTOR of legal capacity.
2. Cessation of services.
3. The delegation or assignment of CONTRACTOR’s services, operation or administration to another entity without the prior written consent of COUNTY.
4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty required pursuant to this Contract.
5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of this Contract.
6. The continued incapacity of any physician or licensed person to perform duties required pursuant to this Contract.
7. Unethical conduct or malpractice by any physician or licensed person providing services pursuant to this Contract; provided, however, COUNTY may waive this option if CONTRACTOR removes such physician or licensed person from serving persons treated or assisted pursuant to this Contract.

C. CONTINGENT FUNDING

1. Any obligation of COUNTY under this Contract is contingent upon the following:
 - a. The continued availability of federal, state and county funds for reimbursement of COUNTY’s expenditures, and

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

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

7 D. In the event this Contract is suspended or terminated prior to the completion of the term as
8 specified in the Referenced Contract Provisions of this Contract, ADMINISTRATOR may, at its
9 sole discretion, reduce the Not To Exceed Amount of this Contract to be consistent with the reduced term
10 of the Contract.

11 E. In the event this Contract is terminated CONTRACTOR shall do the following:

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

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

16 3. Until the date of termination, continue to provide the same level of service required by this
17 Contract.

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

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

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

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

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

33 9. Provide written notice of termination of services to each Client being served under this
34 Contract, within fifteen (15) calendar days of receipt of termination notice. A copy of the notice of
35 termination of services must also be provided to ADMINISTRATOR within the fifteen (15) calendars
36 day period.

37 //

1 F. COUNTY may terminate this Contract, without cause, upon thirty (30) calendar days' written
2 notice. The rights and remedies of COUNTY provided in this Termination Paragraph shall not be
3 exclusive, and are in addition to any other rights and remedies provided by law or under this Contract.

4
5 **XXXII. THIRD PARTY BENEFICIARY**

6 Neither Party hereto intends that this Contract shall create rights hereunder in third parties including,
7 but not limited to, any subcontractors or any Clients provided services pursuant to this Contract.

8
9 **XXXIII. WAIVER OF DEFAULT OR BREACH**

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

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

3
4 WAYMAKERS

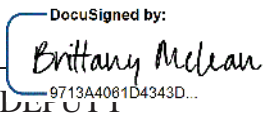
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6 BY:  _____ DATED: 4/10/2020
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10 TITLE: Executive Director

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15 COUNTY OF ORANGE

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18 BY: _____ DATED: _____
19 HEALTH CARE AGENCY

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

27
28 BY:  _____ DATED: 4/10/2020
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30 9713A4081D4343D...
31 DEPUTY

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

1 EXHIBIT A
2 TO CONTRACT FOR PROVISION OF
3 COLLABORATIVE COURTS FULL SERVICE PARTNERSHIP SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 WAYMAKERS
8 JULY 1, 2020 THROUGH JUNE 30, 2023
9

10 **I. COMMON TERMS AND DEFINITIONS**

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

13 1. Admission means documentation, by CONTRACTOR, for completion of entry and
14 evaluation services provided to Clients into IRIS.

15 2. Assessment means a service activity, which may include a clinical analysis of the history
16 and current status of a Client’s mental, emotional, behavioral disorder, and relevant cultural issues. The
17 Assessment also needs to include history of services being provided, diagnosis, and any testing
18 procedures that were used.

19 3. Client means any individual, referred or enrolled, for services under the Contract who is
20 living with mental, emotional, or behavioral disorders.

21 4. Care Plan [also known as Plan of Care (POC) or Master Treatment Plan (MTP)] means a
22 written plan, including by reference any juvenile court order(s), developed and signed by the Family
23 Team that includes the following elements:

- 24 a. A statement of an overall goal or vision for the Client and Client’s family as applicable.
- 25 b. The strengths of the Client and Client’s family as applicable.
- 26 c. The needs, as defined by specific life areas that must be met to achieve the goal(s) of
27 the Client and Client’s family as applicable.
- 28 d. Prevention and intervention safety plans.
- 29 e. The type, frequency, and duration of intervention strategies.
- 30 f. Financial responsibility for the components of the POC.
- 31 g. Desired outcomes.

32 5. Co-occurring means the presence of both mental health diagnosis, according to the DSM-
33 5/ICD-10, and either a substance use disorder or a medical condition which is either exacerbated by or
34 the result of a mental health diagnosis.

35 6. Collateral means significant support individual(s) in a Client’s life and is/are used to define
36 services provided to the Client with the intent of improving or maintaining the mental health status of
37 the Client. The Client may or may not be present for this service activity.

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

5 8. Crisis Assessment Team (CAT) means the team of behavioral health specialists operated by
6 the COUNTY to provide community-based assessment and intervention for youth in crisis operating
7 twenty-four (24) hours a day, seven (7) days a week. The CAT serves as the central point for locating
8 psychiatric beds for youth and facilitating admission for those who require this level of care.

9 9. Crisis Stabilization Unit (CSU) means a County operated or contracted facility operating
10 twenty-four hours for the evaluation of Clients who are experiencing a behavioral health crisis. Those
11 Clients who do not stabilize require inpatient treatment.

12 10. Data Certification means reviewing outcome data mandated by the State and COUNTY for
13 accuracy and signing a Certification of Accuracy of Data form indicating that the data is accurate.

14 11. Data Collection Reporting System means the collection of State mandated data used for the
15 tracking and reporting of outcome data for Clients enrolled in FSP Mental Health Services Act (MHSA)
16 programs.

17 12. Diagnosis means identifying the nature of a Client's disorder. When formulating the
18 Diagnosis of Client, CONTRACTOR shall use the diagnostic codes as specified in the most current
19 International Classification of Diseases – Clinical Modification (ICD-CM) and further defined in the
20 current Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American
21 Psychiatric Association. DSM diagnoses will be recorded on all IRIS documents, as appropriate.

22 13. Direct Service Hour (DSH) means the time, measured in hours and portions of hours, that a
23 clinician spends providing services to Clients or others on behalf of Clients in relationship to their
24 SED/SMI diagnosis. DSH credit, both billable and non-billable minutes, is obtained by providing
25 mental health, case management, medication support, and crisis intervention services to Clients open in
26 IRIS.

27 14. Early Periodic Screening Diagnostic and Treatment (EPSDT) means the State of
28 California's implementation of the Federal child health component of Medicaid program, which
29 provides physical, mental, and developmental health services for children and young adults.

30 15. Education Coordinator means an individual who is responsible for providing assistance and
31 support with educational and vocational services as well as developing resources for those Clients that
32 wish to further their education or training.

33 16. Employment Coordinator means an individual who provides pre-employment training and
34 job orientation to Clients. This individual is also responsible for assisting Clients with job application
35 procedures, teaching social, grooming and dress-for-success personal hygiene skills to Clients, and
36 coaching Clients on how to maintain employment. This individual will develop employment resources
37 //

1 that match the needs of the program's client population. In addition, the Employment Coordinator may
2 provide on-the-job mentoring and will work closely with the hiring companies and Clients.

3 17. Engagement means the act of building a secure connection with a Client(s) through active
4 listening, empathy, and mutual trust, which is likely to increase the Client's acceptance of behavioral
5 health treatment and ultimate integration into his or her community. Engagement of the Client is the
6 objective of successful outreach. Engagement is the process where a trusting relationship between
7 CONTRACTOR's staff and Client is developed over a short period of time, so CONTRACTOR and
8 Client can develop a plan to link the Client to appropriate services within the community. Engagement
9 of the Client is the objective of a successful outreach.

10 18. Face-to-Face Contact means a direct encounter between CONTRACTOR's staff and
11 Client(s)/parent(s)/guardian(s). This does not include contact by phone, email, text, or face time, etc.

12 19. Family Team means a group formed to meet the needs of a FSP eligible Client through the
13 "whatever it takes" approach that includes program staff, Client, the Client's family members, and other
14 support individual(s) the individual or family agrees to include on the team.

15 20. Full-Service Partnership (FSP) means a program model described in COUNTY's MHSA
16 plan that has been approved by the State. The MHSA plan describes how COUNTY will use MHSA
17 funds to develop and implement treatment plans for mental health Clients through FSPs. The FSP is an
18 evidence-based and strength-based model with the focus on the individual rather than the disease. It is
19 culturally competent in-home, intensive, mental health care coordination services that will address
20 individual and family needs across all life domains of the Client.

21 21. Group Home means a facility for housing youth that is licensed by Community Care
22 Licensing under the provisions of CCR, Title 22, Division 6, et seq.

23 22. Head of Service means an individual ultimately responsible for oversight of the program.
24 This person is required to be licensed as a mental health professional.

25 23. Housing Coordinator means an individual who provides assistance to Clients and families
26 to secure and maintain the most stable housing appropriate to their functioning levels and life
27 circumstances. This may range from emergency motel placement to avoid homelessness, transitional
28 housing that will provide stability and skills that would lead to more permanent housing. This
29 individual may also assist in moving to greater independence by creating flex fund usage plans where
30 the Client and family pays a greater percentage of housing cost per month so that housing costs become
31 independently sustainable for the client and family.

32 24. Individual Services and Support Funds (Flexible Funds) means funds used to provide
33 Clients and/or their families with immediate assistance, as deemed necessary, for the treatment of their
34 mental illness and improve their overall quality of life. Flexible Funds are generally categorized as
35 housing, transportation, food, clothing, medical, and miscellaneous expenditures that are individualized
36 and appropriate to support Clients' mental health treatment activities.

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1 25. Integrated Records Information System (IRIS) means the ADMINISTRATOR's database
2 system that collects Clients' information such as registration, scheduled appointments, laboratory
3 information system, invoice and reporting capabilities, compliance with regulatory requirements,
4 electronic medical records, and other relevant applications.

5 26. Intensive Care Coordination (ICC) means a medically necessary service provided to Medi-
6 Cal beneficiaries under the EPSDT benefit. ICC includes assessment, care planning and coordination of
7 services across child services systems and providers, including intensive services for children and/or
8 youth who meet the PWB Subclass criteria.

9 27. Intensive Home-Based Services (IHBS) means a medically necessary service provided to
10 Medi-Cal beneficiaries under the EPSDT benefit. IHBS are individualized, strength-based mental
11 health treatment interventions designed to ameliorate mental health conditions that interfere with a
12 client's functioning. IHBS are provided only in conjunction with ICC and are recommended by the
13 Child and Family Team. IHBS is also provided to the PWB (Katie A. Subclass) population.

14 28. Key Event Tracking (KET) means the tracking of a Client's service movement and changes
15 in the approved Data Collection System. A KET must be completed following the DCR business rules
16 and entered accurately each time the CONTRACTOR is reporting a change from previous Client status
17 in certain categories. The categories include: administrative status, residential status (including
18 incarcerations and hospitalizations), employment, education, benefits acquisition, legal status,
19 emergency interventions and any other fields set forth by the State or County.

20 29. Licensed Clinical Social Worker (LCSW) means a licensed individual, pursuant to the
21 provisions of Chapter 14 of the California Business and Professions Code, who can provide clinical
22 services to Clients. The license must be current and in force, and has not been suspended or revoked.
23 Also, it is preferred that the individual has at least one (1) year of experience treating children and
24 Transitional Age Youth (TAY).

25 30. Licensed Marriage Family Therapist (LMFT) means a licensed individual, pursuant to the
26 provisions of Chapter 13 of the California Business and Professions Code, who can provide clinical
27 services to Clients. The license must be current and in force and has not been suspended or revoked.
28 Also, it is preferred that the individual has at least one (1) year of experience treating children and TAY.

29 31. Licensed Professional Clinical Counselor (LPCC) means a licensed individual, pursuant to
30 the provisions of Chapter 16 of the California Business and Professions Code, who can provide clinical
31 service to Clients. The license must be current and in force and has not been suspended or revoked.
32 Also, it is preferred that the individual has at least one (1) year of experience treating children and TAY.

33 32. Licensed Psychiatric Technician (LPT) means a licensed individual, pursuant to the
34 provisions of Chapter 10 of the California Business and Professions Code, who can provide clinical
35 services to Clients. The license must be current and in force and has not been suspended or revoked.
36 Also, it is preferred that the individual has at least one (1) year of experience treating children and TAY.

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1 33. Licensed Psychologist means a licensed individual, pursuant to the provisions of Chapter
2 6.6 of the California Business and Professions Code, who can provide clinical services to Clients. The
3 license must be current and in force and has not been suspended or revoked. Also, it is preferred that the
4 individual has at least one (1) year of experience treating children and TAY.

5 34. Licensed Vocational Nurse (LVN) means a licensed individual, pursuant to the provisions
6 of Chapter 6.5 of the California Business and Professions Code, who can provide clinical services to
7 Clients. The license must be current and in force and has not been suspended or revoked. Also, it is
8 preferred that the individual has at least one (1) year of experience treating children and TAY.

9 35. Live Scan means an inkless, electronic fingerprint, which is transmitted directly to the
10 Department of Justice (DOJ) for the completion of a criminal record check, typically required of
11 employees who have direct contact with Clients.

12 36. Medi-Cal means the State of California's implementation of the federal Medicaid health
13 care program, which pays for a variety of medical services for children and adults who meet eligibility
14 criteria.

15 37. Medical Necessity means that a service is medically necessary if it is needed in order to
16 address a particular mental health condition. Four parts must be present to meet the criteria for medical
17 necessity: 1) a covered diagnosis per the County's MHP; 2) an impairment as a result of the disorder
18 that affects the ability to function individually or in the community; 3) the intervention needed must be
19 focused on addressing the impairment; and 4) the intervention must meet specialty mental health service
20 criteria (i.e., the condition being treated would be responsive to mental health treatment, but would not
21 be responsive to physical health care based treatment).

22 38. Medication Support Services means services provided by licensed physicians, registered
23 nurses, or other qualified medical staff, which include: prescribing, administering, dispensing and
24 monitoring of psychiatric medications or biologicals that are necessary to alleviate symptoms of mental
25 illness. These services also include evaluation and documentation of the clinical justification and
26 effectiveness of medication, dosage, side effects, compliance, and response to medication. In addition,
27 the licensed physicians, registered nurses, or other qualified medical staff must obtain informed consent
28 from Clients prior to providing medication education and plan development related to the delivery of
29 these services and/or Assessment to Clients.

30 39. Mental Health Services includes individual or group therapies and interventions that can
31 reduce mental disability and restore, improve or maintain functioning. These should help with learning,
32 development, independent living and enhanced self-sufficiency and that are not provided as part of
33 another mental health program (e.g., such as a day or residential program). Service activities may
34 include assessment, plan development, therapy, rehabilitation and related services. In addition, these
35 services cannot be provided as a component of adult residential services, crisis residential treatment
36 services, crisis intervention, crisis stabilization, day rehabilitation, or day treatment intensive. Service
37 activities may include, but are not limited to, assessment: plan development, rehabilitation, and

1 collateral. Also, Mental Health Services may be either face-to-face contact, by telephone with Clients or
2 significant support individuals, and services may be provided anywhere in the community.

3 40. Mentoring Services means non-clinical interventions provided to a client by a screened and
4 trained mentor, in conjunction with the therapeutic services being received, to help the client reach a
5 treatment goal, become independent and self-sufficient. The mentor is a peer or older, more
6 experienced individual who provides one-to-one contact and support in the following areas to assist
7 Client(s)/parent(s)/guardian(s): consistent support; guidance; coaching in life skills; concrete help and/or
8 other relationship-building activities; and linking the Client(s)/parent(s)/guardian(s) to other services
9 within the COUNTY.

10 41. National Provider Identifier (NPI) means the standard unique health identifier that was
11 adopted by the Secretary of HHS Services under HIPAA for health care providers. All HIPAA covered
12 healthcare providers, individuals, and organizations must obtain an NPI for use to identify themselves in
13 HIPAA standard transactions. The NPI is assigned for life.

14 42. Notice of Adverse Benefit Determination (NOABD), as outlined in California Code of
15 Regulations Title 9 Chapter 11 Section 1850.210 and Title 22, Section 50179, means to provide formal
16 written notification via hand-delivery or mail to Medi-Cal Beneficiaries and faxed or mailed to the
17 ADMINISTRATOR when services are denied, modified, reduced, delayed, suspended or terminated as
18 specified by State standards.

19 43. Notice of Privacy Practices (NPP) means a document that notifies Clients of uses and
20 disclosures of PHI/PII. The NPP may be made by, or on behalf of, the health plan or health care
21 provider as set forth in HIPAA.

22 44. Outcomes Analyst means an individual who ensures that a program maintains a focus on
23 program outcomes and quality assurance of the data being reported. This individual will be responsible
24 for reviewing outcome data and other collected information for accuracy and correcting any errors prior
25 to entering into the data capture system and again prior to exporting the files to the County and State.
26 The Outcomes Analyst will analyze data and develop strategies for gathering new data from the Client's
27 perspective to improve the program's understanding of Client's needs and desires towards furthering
28 their recovery. This individual will also provide feedback to the program and work collaboratively with
29 the employment specialist, education specialist, benefits specialist, and other staff in the program to
30 strategize and improve outcomes in service delivery as well as improve accuracy in reporting and
31 tracking outcomes and other information. In addition, this position will be responsible for attending all
32 data and outcome related meetings and ensuring that the program is being proactive in all data collection
33 requirements and changes at the local and state levels.

34 45. Outreach means the activity of providing services to potential clients who might not
35 otherwise have access to those services. Outreach includes going out in the community and providing
36 education about services offered and requirements for participation in the various mental health
37 programs within the community. It includes identification of underserved populations and linkage to

1 appropriate Mental Health Services within the community. Such activities may result in the
2 CONTRACTOR developing Referral sources for Clients from programs being offered within the
3 community.

4 46. Partnership Assessment Form (PAF) means the baseline Assessment for each Client (as
5 defined by the State and/or County) that must be completed in full and entered into the DCR system
6 within thirty (30) days of the Client's enrollment date. All DCR business rules regarding transferring
7 and re-enrolling Clients must be followed and verified prior to entering a PAF in the system.

8 47. Pathways to Wellbeing is the program that the State Departments of Social Services and
9 Health Care Services have put into place to serve youth, many of whom had been in the
10 Katie A. Subclass, which was established in settlement of the lawsuit, Katie A. et al. v. Bonta et al., a
11 class action lawsuit filed in Federal District Court concerning the availability of intensive mental health
12 services to children in California who are either in foster care or at imminent risk of coming into care.

13 48. Pathways to Wellbeing (PWB) subclass refers to the lawsuit, Katie A. et al. v. Bonta et al.,
14 a class action lawsuit filed in Federal District Court concerning the availability of intensive mental
15 health services to children in California who are either in foster care or at imminent risk of coming into
16 care.

17 49. Personal Services Coordinator (PSC) means an individual with a Bachelor's Degree in
18 Human Services or related field. It is preferred that the individual has at least two (2) years of related
19 experience with Mental Health Services, or three (3) years' experience as a Client in a similar program
20 who has graduated to self-sufficiency. A PSC leads the implementation of a service plan covering an
21 entire range of needs for the Client and/or Client's family to promote success, safety, and permanence in
22 the home, school, workforce, and community and lead Clients to self-sufficiency.

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

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

35 52. Psychiatrist means an individual who meets the minimum professional and licensure
36 requirements set forth in Title 9, CCR, Section 623, and, preferably, has at least one (1) year of
37 experience treating children and TAY.

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

6 54. Referral means effectively linking Clients to other services within the community and
7 documenting follow-up provided within five (5) business days to assure that Clients have made contact
8 with the referred service(s). Referrals should always include a warm handoff, engaging the patient’s
9 support system, as appropriate and ensuring accountability for Clients’ care until Client gets to the
10 alternate level of care and has a successful interaction.

11 55. Registered Nurse (RN) means a licensed individual, pursuant to the provisions of Chapter 6
12 of the California Business and Professions Code, who can provide clinical services to Clients. The
13 license must be current and in force, and has not been suspended or revoked. Also, it is preferred that
14 the individual has at least one (1) year of experience treating children and TAY.

15 56. Rehabilitation Service means an activity which includes assistance to improving,
16 maintaining, or restoring a Client’s or group of Clients’ skills such as: functional, daily living, social and
17 leisure, grooming and personal hygiene, meal preparation, support resources and/or medication
18 education.

19 57. Serious Emotional Disturbed (SED) means a mental disorder as identified in the most
20 recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary
21 substance use disorder or developmental disorder, which results in behavior inappropriate to the child’s
22 (under the age of 18) age according to expected developmental norms (W&I 5600.3).

23 58. Serious Mental Impairment (SMI) means an adult with a mental disorder that is severe in
24 degree and persistent in duration, which may cause behavioral functioning which interferes substantially
25 with the primary activities of daily living, which may result in an inability to maintain stable adjustment
26 and independent functioning without treatment, support, and rehabilitation for a long or indefinite period
27 of time (W&I 5600.3).

28 59. Short-Term Residential Therapeutic Program (STRTP) means a residential facility operated
29 by a public agency or private organization and licensed by the California Department of Social Services
30 pursuant to Section 1562.01 that provides an integrated program of specialized and intensive care and
31 supervision, services and supports, treatment, and short-term 24-hour care and supervision to children with
32 the aim of moving the youth to a less restrictive environment within six (6) months. The care and
33 supervision provided by a short-term residential therapeutic program shall be nonmedical, except as
34 otherwise permitted by law. Private short-term residential therapeutic programs shall be organized and
35 operated on a nonprofit basis.

36 60. Student Intern means student(s) currently enrolled in an accredited graduate or
37 undergraduate program and who is/are accumulating supervised work experience hours as part of

1 fieldwork, internship, or practicum requirements. Acceptable programs include all programs that assist
2 students in meeting the educational requirements to be a Licensed MFT, a LCSW, a Licensed Clinical
3 Psychologist, a Licensed PCC, or to obtain a Bachelor's degree. Individuals with graduate degrees and
4 have two (2) years of full-time experience in a mental health setting, either post-degree or as part of the
5 program leading to the graduate degree, are not considered as students.

6 61. Substance Use treatment means a program that uses a stage-wise treatment model and is
7 non-confrontational, follows behavioral principles, considers interactions between mental illness and
8 substance abuse, and has gradual expectations of abstinence.

9 62. Therapeutic Behavioral Services (TBS) means one-on-one behavioral interventions with a
10 Client, which are designed to reduce or eliminate targeted behaviors as identified in the Client's
11 treatment plan. Collateral services are also provided to parent(s)/guardian(s) as part of TBS. Clients
12 must be Medi-Cal eligible and meet TBS class membership and service need requirements.
13 Documentation in the medical record must support Medical Necessity for these intensive services.
14 Cases in which Clients are receiving more than twenty hours per week of TBS or those who are
15 expected to receive more than four (4) months (120 days) of TBS must be approved by
16 ADMINISTRATOR. ADMINISTRATOR will approve individuals that are delivering these
17 intervention services to ensure they are qualified to deliver these services.

18 63. Targeted Case Management means services that assist a Client to access needed medical,
19 educational, social, prevocational, vocational, rehabilitative, or other community services. These
20 service activities may include, but are not limited to, communicating and coordinating services through
21 referral, monitoring service delivery to ensure Clients' access to service and the service delivery system,
22 and tracking of Clients' progress and plan development.

23 64. Treatment Foster Care or also known as Therapeutic Foster Care means intensive and
24 highly coordinated mental health and support services provided to a foster parent or caregiver in which
25 the foster parent/caregiver becomes an integral part of the child's treatment team.

26 65. Therapy means a therapeutic intervention that focuses primarily on symptom reduction as a
27 means to improve functional impairments. Therapy may be delivered to a Client or a group of Clients
28 and may include family therapy with Client being present.

29 66. The Mental Health Services Act (MHSA), also known as Proposition 63 is a voter-
30 approved initiative to develop a comprehensive approach to providing community-based mental health
31 services and supports for California residents.

32 67. Three (3) M's means the Quarterly Assessment Form being completed for each Client
33 every three months in the approved Data Collection System. It tracks changes in education, sources of
34 financial support, legal issues/designations, health status, substance abuse, and any other fields set forth
35 by the State and/or the County. Must be completed not more than 14 days prior to or 30 days after the
36 due date.

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1 68. Token means the security device, which allows an end-user to access the
2 ADMINISTRATOR's computer-based IRIS.

3 69. Transition Age Youth (TAY) means an individual ages 16 through 25 years of age.

4 70. Uniform Method for Determining Ability to Pay (UMDAP) is set forth by the State of
5 California and means the method used for determining the annual client liability for mental health
6 services received from the COUNTY mental health system.

7 71. Wraparound Orange County (WOC) is a program administered by the COUNTY Social
8 Services Agency (SSA), available to children and youth, ages 0-17, who have severe emotional or
9 behavioral difficulties, and are currently placed in, or at-risk of being placed in, a group home (which
10 includes residential treatment centers and correctional placements), and are either a dependent from
11 child welfare, a ward from probation, or referred by mental health and identified by special education.

12 **II. BUDGET**

13
14 A. COUNTY shall pay CONTRACTOR in accordance with the Payments Paragraph in this
15 Exhibit A to the Contract and the following budgets, which are set forth for informational purposes only
16 and may be adjusted by mutual Contract, in writing, by ADMINISTRATOR and CONTRACTOR.

	18 TERM	18 TERM	18 TERM	
	19 <u>ONE</u>	19 <u>TWO</u>	19 <u>THREE</u>	19 <u>TOTAL</u>
20 ADMINISTRATIVE COST				
21 Indirect Costs	\$ 280,091	\$ 280,091	\$ 280,091	\$ 840,273
22 SUBTOTAL	\$ 280,091	\$ 280,091	\$ 280,091	\$ 840,273
23 ADMINISTRATIVE COST				
24				
25 PROGRAM COST				
26 Salaries	\$1,692,417	\$1,692,417	\$1,692,417	\$ 5,077,251
27 Benefits	430,346	430,346	430,346	1,291,038
28 Services and Supplies	685,161	685,161	685,161	2,055,483
29 Subcontractor	39,520	39,520	39,520	118,560
30 Flexible Funds	<u>236,000</u>	<u>236,000</u>	<u>236,000</u>	<u>708,000</u>
31 SUBTOTAL	\$3,083,444	\$ 3,083,444	\$ 3,083,444	\$ 9,250,332
32 PROGRAM COST				
33 TOTAL GROSS COST	\$3,363,535	\$ 3,363,535	\$ 3,363,535	\$ 10,090,605
34				
35 REVENUE				
36 FFP Medi-Cal	\$ 524,979	\$ 524,979	\$ 524,979	\$ 1,574,937
37 MHSA	<u>2,838,556</u>	<u>2,838,556</u>	<u>2,838,556</u>	<u>8,515,668</u>

1	TOTAL REVENUE	\$3,363,535	\$3,363,535	\$3,363,535	\$10,090,605
2					
3	TOTAL MAXIMUM	\$3,363,535	\$3,363,535	\$3,363,535	\$10,090,605
4	OBLIGATION				
5					

6 B. CONTRACTOR agrees the total cost of services provided for in the Contract are based upon
 7 projected revenue generation and shall be reimbursed by federal Medi-Cal and COUNTY MHSA
 8 revenues. CONTRACTOR agrees that if actual federal Medi-Cal reimbursement, based upon the
 9 completed Cost Report, as specified in the Cost Report Paragraph of the Contract, for each Fiscal Year
 10 is less than budgeted, the Maximum Obligation may, at ADMINISTRATOR’s sole discretion, be
 11 adjusted down by the amount of under generated federal Medi-Cal revenue. CONTRACTOR further
 12 agrees that MHSA revenue shall be used to cover the cost of non-Medi-Cal Clients and/or non-Medi-Cal
 13 billable services and shall not exceed the amounts specified in the Budget Paragraph, Subparagraph A.
 14 of this Exhibit A to the Contract, unless authorized, in writing, by ADMINISTRATOR.

15 C. In the event CONTRACTOR collects fees and insurance, including Medicare, for services
 16 provided pursuant to the Contract, CONTRACTOR may make written application to
 17 ADMINISTRATOR to retain such revenues; provided, however, the application must specify that the
 18 fees and insurance shall be utilized exclusively to provide Mental Health Services. ADMINISTRATOR
 19 may, at its sole discretion, approve any such retention of revenues. Approval by ADMINISTRATOR
 20 shall be in writing to CONTRACTOR and shall specify the amount of said revenues to be retained and
 21 the quantity of services to be provided by CONTRACTOR.

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

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

1 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
2 Budget Paragraph of this Exhibit A to the Contract.

3 4 **III. PAYMENTS**

5 A. COUNTY shall pay CONTRACTOR monthly, in arrears, the provisional amount of
6 \$280,294 per month for each period, as specified in the Referenced Contract Provisions of the Contract.
7 All payments are interim payments only, and subject to Final Settlement in accordance with the Cost
8 Report Paragraph of the Contract for which CONTRACTOR shall be reimbursed for the actual cost of
9 providing the services hereunder; provided, however, the total of such payments does not exceed
10 COUNTY's Maximum Obligation as specified in the Referenced Contract Provisions of the Contract
11 and, provided further, CONTRACTOR's costs are reimbursable pursuant to COUNTY,
12 state, and federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices for
13 any month for which the provisional amount specified above has not been fully paid.

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

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

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

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

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

36 D. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply
37 with any provision of the Contract.

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

4 F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
5 Payments Paragraph of this Exhibit A to the Contract.

6 7 **IV. REPORTS**

8 **A. FISCAL**

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

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

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

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

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

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

7
8 **V. SERVICES**

9 **A. FACILITIES**

10 1. CONTRACTOR shall maintain a minimum of two (2) fully licensed and appropriate
11 facilities for the provision of Full Service Partnership Services for participants in Juvenile Recovery
12 Court, Teen Court, Grace Court, youth involved with the Juvenile Court’s Truancy Reduction Program
13 and those youth who are dually eligible as being both Wards and Dependents of the Court which meet
14 the minimum requirements for Medi-Cal eligibility at the following locations or any other location(s)
15 approved by ADMINISTRATOR:

16
17 1221 East Dyer Road, Suite 220 16580 Harbor Boulevard, Unit O
18 Santa Ana, California 92705 Fountain Valley, CA 92708

19
20 2. CONTRACTOR shall maintain regularly scheduled service hours, throughout the year, and
21 maintain the capability to provide services during after-school hours on weekdays, and on the weekends,
22 if necessary, in order to accommodate Clients.

23 a. CONTRACTOR’s administrative staff holiday schedule shall be consistent with
24 COUNTY’s holiday schedule unless otherwise approved, in advance and in writing, by
25 ADMINISTRATOR.

26 b. CONTRACTOR shall provide Clients and/or their family members with twenty-four
27 (24) hours a day, seven (7) days a week, three hundred sixty five (365) days a year access to their
28 assigned case manager or designee acceptable to ADMINISTRATOR. CONTRACTOR shall also
29 develop with each Client and/or Client’s family a plan for Crisis Intervention services, which includes
30 whom to contact for emergency services.

31 3. Upon ADMINISTRATOR’s certification of the provider's existing site, the
32 CONTRACTOR shall be responsible for making any necessary changes to meet and maintain Medi-Cal
33 site standards.

34 **B. FSP SERVICES**

35 1. CONTRACTOR shall assess potential Clients meeting the following criteria unless written
36 exception is granted by ADMINISTRATOR:

37 //

- 1 a. Individuals under the age of eighteen (18) years of age (until eighteenth [18th]
- 2 birthday);
- 3 b. Individuals eighteen (18) through twenty-five (25) years of age (until twenty-sixth
- 4 [26th] birthday) who are legally residing in COUNTY and otherwise eligible for public services under
- 5 federal and state law;
- 6 c. Displaying behaviors or a history indicative of Serious Emotional Disorder as defined
- 7 by WIC Section 5600.3; and
- 8 d. In one of the following target groups:
- 9 1) homeless;
- 10 2) unserved or underserved because of linguistic or cultural isolation;
- 11 3) with a history of multiple psychiatric hospitalizations;
- 12 4) experiencing their first psychotic episodes;
- 13 5) uninsured and exiting the Social Service or Probation systems;
- 14 6) with special needs and/or co-occurring disorders;
- 15 7) children of parent(s)/guardian(s) with serious mental illness; or
- 16 8) ages zero (0) through five (5) and school age children who are unable to function in
- 17 the mainstream school, preschool or day care setting because of emotional problems.

18 2. CONTRACTOR shall coordinate referrals with the Juvenile Court of Orange County and

19 serve those Clients referred by Juvenile Recovery Court, Teen Court, Grace Court, Truancy Response

20 Program and those Clients referred who are dual jurisdiction (under Court supervision as under the

21 provisions of both W&I 300 and W&I 601 or 602). This coordination will include participation in court

22 team meetings, appearance in Court as requested and other activities that support the functioning of

23 those collaborative courts. Additional youth may be served as the Juvenile Court identifies needs

24 beyond those specified above. This contract may be renegotiated and amended as necessary to meet

25 these needs.

26 3. CONTRACTOR shall coordinate referrals with other existing wraparound and Mental

27 Health Services to ensure that all Clients and/or their families are given access to the most appropriate

28 level and type of services. Other services may include WOC, MHSA programs for children and/or

29 adults, and other COUNTY Mental Health Services.

30 4. CONTRACTOR shall provide supportive services for all persons referred but not admitted

31 to the FSP until those persons can be engaged in alternative services. Referrals to alternate services, and

32 the supported services provided until Engagement, will be reviewed and approved by

33 ADMINISTRATOR.

34 5. CONTRACTOR shall provide a FSP program that will provide in-home, intensive, mental

35 health case management services addressing family needs across all life domains of the Client. In the

36 program, a case manager and an enrollee/family will form a service team which will identify strengths,

37 needs and resources, including additional people to be added to the team. The team will develop a

1 service plan for each enrollee within sixty (60) calendar days of enrollment. The implementation of the
2 service plan will be the responsibility of the team using a “whatever-it-takes” approach to promote
3 success, safety and permanence in the home, school, and community. The plan will cover the entire
4 range of needs for the Client and/or their family: housing, employment and medical, etc., in addition to
5 Mental Health Services. The team will be responsible for identifying ways of addressing need through
6 linkage to existing services in the community and will also have limited access to additional funding to
7 access other needed services or support as necessary.

8 6. CONTRACTOR shall ensure that every Client is engaged in mental health treatment
9 appropriate to his/her Diagnosis and level of distress. Therapists, Psychiatrist, and others providing
10 treatment will be included on the FSP team unless otherwise approved in writing by
11 ADMINISTRATOR.

12 7. CONTRACTOR shall collect and input all data about characteristics and progress of the
13 Clients into a Data Collection System or other database as mandated by the state and/or
14 ADMINISTRATOR.

15 8. CONTRACTOR shall review the financial status of all enrollees using the UMDAP, unless
16 otherwise approved in writing by COUNTY.

17 9. CONTRACTOR shall maximize collection of Medi-Cal and other third-party payors
18 whenever appropriate and in accordance with all State and COUNTY procedures.

19 10. CONTRACTOR shall confer with ADMINISTRATOR prior to recommending a Client for
20 discharge. Planning for discharge or transition to an appropriate alternative service shall be initiated at
21 Admission to the FSW and be incorporated into the service plan.

22 11. CONTRACTOR shall develop and maintain an advisory committee for the FSW services,
23 which shall meet at least monthly to review and comment on the progress of the program. Clients,
24 former Clients, and/or their family members shall be represented on the committee, as well as relevant
25 community representatives mutually agreed upon by ADMINISTRATOR and CONTRACTOR.

26 12. CONTRACTOR shall participate in any clinical case review and implement any
27 recommendations made by ADMINISTRATOR to improve Client care.

28 13. CONTRACTOR shall conduct a sixty (60) day review of open cases, or previously opened
29 with another provider. CONTRACTOR shall ensure that all chart documentation complies with all
30 federal, state, and COUNTY guidelines and standards.

31 14. CONTRACTOR shall ensure that all clinical documentation is completed promptly and is
32 reflected on the Client’s chart within seventy-two (72) hours after the completion of services.

33 C. FLEXIBLE FUNDS

34 1. CONTRACTOR shall follow the procedures identified below and as specified by
35 ADMINISTRATOR, regarding the request for, use, and accounting of Individual Services and Support
36 funds (Flexible Funds):

37 //

1 a. Flexible Funds shall be individualized, appropriate, reasonable, and justified for the
2 treatment of a Client’s mental illness and overall quality of life;

3 b. Flexible Funds may be utilized when other community resources such as
4 family/friends, food banks, shelters, charitable organizations, etc., are not available and/or accessible in
5 a timely manner or are not appropriate for a Client’s situation. Designated CONTRACTOR staff shall
6 assist Clients in exploring other available resources whenever possible, prior to utilizing Flexible Funds;

7 c. Flexible Funds expenditures for various types of purchases shall be identified as
8 allowable, unallowable, or require discussion with ADMINISTRATOR;

9 d. Flexible Funds shall not be used for housing Clients that have not been enrolled in
10 CONTRACTOR’s program, unless approved, in advance and in writing, by ADMINISTRATOR;

11 e. Flexible Funds shall not be given in the form of cash to any Client, either enrolled or in
12 the Outreach and Engagement phase of the CONTRACTOR’s program;

13 f. Pre-purchases shall only be for food, transportation, clothing and motels or other
14 purchases as required and appropriate, and approved in advance and in writing, by ADMINISTRATOR;

15 g. Pre-purchases of food, transportation, and clothing vouchers and/or gift cards shall be
16 limited to a combined \$5,000 supply on-hand at any given time, and that all voucher and/or gift card
17 purchases and disbursements shall be tracked and logged by designated CONTRACTOR staff.
18 Vouchers and/or gift cards shall be limited in monetary value to not more than \$25 each, unless
19 otherwise approved in advance and in writing, by ADMINISTRATOR.

20 h. Pre-purchases for motels shall be on a case-by-case basis and time-limited in nature,
21 and only utilized while more appropriate housing is being located. Pre-purchases of motel rooms shall
22 be tracked and logged upon purchase and disbursement.

23 2. CONTRACTOR’s process for documenting and accounting for all Flexible Fund
24 expenditures, shall include, but not be limited to, retention of comprehensible source documentation
25 such as receipts, copies of lease/rental agreements for Client housing, general ledgers, and needs shall be
26 documented in Client’s MHP;

27 3. CONTRACTOR shall obtain written authorization from ADMINISTRATOR for individual
28 purchases made on behalf of a Client and/or Client family member(s) in the amount(s) as determined by
29 ADMINISTRATOR;

30 a. Gift cards and vouchers for Clients shall be securely stored and documentation of their
31 disbursement, including end-of-year process accounting for gift cards still in staff possession, shall be
32 maintained by CONTRACTOR.

33 b. A single Flexible Fund expenditure, between \$500 and \$1,000 will need prior approval
34 from the program monitor, any requests in excess of \$1,000, shall not be made without prior written
35 approval of ADMINISTRATOR. In emergency situations, CONTRACTOR may exceed the \$1,000
36 limit, if appropriate and justified, and shall notify ADMINISTRATOR the next business day of such an
37 //

1 expense. Said notification shall include total costs and a justification for the expense. Failure to notify
2 ADMINISTRATOR within the specified timeframe may result in disallowance of the expenditure;

3 4. CONTRACTOR shall designate staff to authorize Flexible Fund expenditures and that the
4 mechanism used to ensure this staff has timely access to Flexible Funds is identified; and

5 5. CONTRACTOR shall report Flexible Funds expenditure detail monthly, on a form
6 provided or approved by ADMINISTRATOR. The Flexible Fund report shall be submitted with
7 CONTRACTOR's monthly Expenditure and Revenue Report. The report shall be submitted to
8 ADMINISTRATOR no later than the twentieth (20th) day following the end of the month being
9 reported. CONTRACTOR must request in writing any extensions to the due date of the monthly report.

10 6. CONTRACTOR shall develop and maintain a policy and procedure regarding Flexible
11 Funds that incorporates at a minimum the requirements as specified in Subparagraph C.1., above.
12 CONTRACTOR shall submit said policy and procedure to ADMINISTRATOR no later than twenty (20)
13 calendar days from the start of the Contract. If the Flexible Fund policy and procedure has not been
14 approved by ADMINISTRATOR within sixty (60) calendar days from the start of the Contract, any
15 subsequent Flexible Fund expenditures may be disallowed by ADMINISTRATOR.

16 D. TOKENS – ADMINISTRATOR shall provide CONTRACTOR the necessary number of
17 Tokens for appropriate individual staff to access IRIS at no cost to the CONTRACTOR.

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

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

22 3. CONTRACTOR shall indicate in the monthly staffing report, the serial number of the
23 Token for each staff member assigned a Token.

24 4. CONTRACTOR shall return to ADMINISTRATOR all Tokens under the following
25 conditions:

- 26 a. Token of each staff member who no longer supports the Contract;
- 27 b. Token of each staff member who no longer requires access to IRIS;
- 28 c. Token of each staff member who leaves employment of CONTRACTOR; or
- 29 d. Token is malfunctioning;
- 30 e. Termination of the Contract.

31 5. ADMINISTRATOR shall issue Tokens for CONTRACTOR's staff members who require
32 access to IRIS upon initial training or as a replacement for malfunctioning Tokens.

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

35 7. CONTRACTOR shall input all IRIS data following COUNTY procedure and practice. All
36 statistical data used to monitor CONTRACTOR shall be compiled using only COUNTY IRIS reports, if
37 available, and if applicable.

1 E. CONTRACTOR shall obtain a NPI.

2 1. All HIPAA covered healthcare providers, individuals and organizations must obtain a NPI
3 for use to identify themselves in HIPAA standard transactions.

4 2. CONTRACTOR, including each employee that provides services under the Contract, will
5 obtain a NPI upon commencement of the Contract or prior to providing services under the Contract.
6 CONTRACTOR shall report to ADMINISTRATOR, on a form approved or supplied by
7 ADMINISTRATOR, all NPI as soon as they are available.

8 F. CONTRACTOR shall provide the NPP for the COUNTY, as the MHP, at the time of the first
9 service provided under the Contract to individuals who are covered by Medi-Cal and have not
10 previously received services at a COUNTY operated clinic. CONTRACTOR shall also provide, upon
11 request, the NPP for the COUNTY, as the MHP, to any individual who received services under the
12 Contract.

13 G. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,
14 with respect to any individual(s) who have been referred to CONTRACTOR by COUNTY under the
15 terms of the Contract. Further, CONTRACTOR agrees that the funds provided hereunder will not be
16 used to promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian
17 institution, or religious belief.

18 H. CONTRACTOR shall not engage in, or permit any of its employees or subcontractors, to
19 conduct research activity on COUNTY Clients without obtaining prior written authorization from
20 ADMINISTRATOR.

21 I. CONTRACTOR shall provide effective Administrative management of the budget, staffing,
22 recording, and reporting portion of the Contract with the COUNTY. If administrative responsibilities
23 are delegated to subcontractors, CONTRACTOR must ensure that any subcontractor(s) possess the
24 qualifications and capacity to perform all delegated responsibilities. These responsibilities include, but
25 are not limited, to the following:

- 26 1. Designate the responsible position(s) in your organization for managing the funds allocated
- 27 to the program;
- 28 2. Maximize the use of the allocated funds;
- 29 3. Ensure timely and accurate reporting of monthly expenditures;
- 30 4. Maintain appropriate staffing levels;
- 31 5. Request budget and/or staffing modifications to the Contract;
- 32 6. Effectively communicate and monitor the program for its success;
- 33 7. Track and report expenditures electronically;
- 34 8. Maintain electronic and telephone communication between CONTRACTOR and
- 35 ADMINISTRATOR; and
- 36 9. Act quickly to identify and solve problems.

37 //

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

6 K. CONTRACTOR shall advise ADMINISTRATOR of any special incidents, conditions, or issues
 7 that adversely affect the quality or accessibility of Client-related services provided by, or under contract
 8 with, the COUNTY as identified by the ADMINISTRATOR.

9 L. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
 10 Services Paragraph of this Exhibit A to the Contract.

11 VI. STAFFING

12 A. CONTRACTOR shall, at a minimum, provide the following staffing pattern expressed in
 13 Full-Time Equivalents (FTEs) continuously throughout the term of the Contract. One (1) FTE shall be
 14 equal to an average of forty (40) hours work per week.
 15

16 DIRECT PROGRAM

17	Licensed Director of Youth Development	0.40
18	Licensed Program Director	1.00
19	Licensed Assistant Program Director	1.00
20	Licensed Clinical Supervisor/ Assistant Program Director	1.00
21	Clinician/Counselor II	4.00
22	Transition Coordinator	8.00
23	Service Coordinator	4.00
24	Peer Support Partner	1.00
25	Career and Education Specialist	1.00
26	FSP Supervisor	4.00
27	Facility Supervisor	0.25
28	Information and Referral Specialist	0.10
29	Quality Assurance Supervisor	1.00
30	Data Analyst	1.00
31	Quality Assurance Specialist I	1.00
32	Overtime for Non-Exempt Staff	0.05
33	Office Specialist	<u>0.65</u>
34	SUBTOTAL PROGRAM	29.45
35	Subcontractor	<u>0.10</u>
36	TOTAL FTEs	29.55

1 B. CONTRACTOR shall have as Head of Service; a licensed mental health professional, in
2 conformance to one of the following staff categories: Psychiatrist, Licensed Psychologist, LCSW,
3 LPCC, Licensed MFT, RN, LVN, or LPT.

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

12 D. CONTRACTOR shall maintain personnel files for each staff person, including management and
13 other administrative positions, both direct and indirect to the Contract, which shall include, but not be
14 limited to, an application for employment, qualifications for the position, applicable licenses, Live Scan
15 results, waivers, registrations, documentation of bicultural/bilingual capabilities (if applicable), pay rate
16 and evaluations justifying pay increases.

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

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

28 G. CONTRACTOR shall notify ADMINISTRATOR, in writing, within seventy-two (72) hours, of
29 any staffing vacancies that occur during the term of the Contract. CONTRACTOR's notification shall
30 include at a minimum the following information: employee name(s), position title(s), date(s) of
31 resignation, date(s) of hire, and a description of recruitment activity.

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

35 I. CONTRACTOR shall provide training to service staff covering suicide assessment and crisis
36 intervention or indications of suicidal risk (depending on scope of practice), developing safety plans,
37 maintaining healthy boundaries, reporting child abuse, dealing with difficult Clients, meeting facilitation

1 and medication, confidentiality, identification of strengths, promoting life skills, and such other topics
 2 identified by the COUNTY. Formal training sessions may also be used to cover these topics but cannot
 3 substitute for weekly supervision hours.

4 J. CONTRACTOR shall maintain a current signature list including each supervisor and provider
 5 of direct services who signs chart documentation. The list shall include the printed/type staff name and
 6 title, followed by the legal signature with title as it appears on all chart documents. For licensed or
 7 registered clinical staff, the name must match the name on the license or registration.

8 K. CONTRACTOR shall establish clear policy and procedures pertaining to staff's work location
 9 options (i.e., office vs. field/home) and equipment usage (e.g., cell phones, texting devices, and
 10 computers). The policy and procedures shall address, at the minimum, the following:

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

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

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

24 N. WORKLOAD STANDARDS - CONTRACTOR understands and agrees that at any given time
 25 the standards referenced below are minimum standards and shall make every effort to exceed these
 26 minimums.

- 27 1. One DSH shall be equal to sixty (60) minutes of direct Client service.
- 28 2. CONTRACTOR shall provide a minimum of twenty-two thousand eighty (22,080) of hours
 29 of mental health, case management, crisis intervention, and other support services and is inclusive of
 30 both billable and non-billable services, including one hundred and twenty (120) medication units.
- 31 3. CONTRACTOR shall provide a minimum of 25% billable DSH/five thousand five hundred
 32 fifty (5,550) DSH and 75% non-billable DSH/sixteen thousand six hundred fifty (16,650) DSH for the
 33 duration of this Contract, unless otherwise approved by ADMINSTRATOR.
- 34 4. CONTRACTOR shall, at a minimum, provide the following DSH per month per FTE:
 35 a. Clinician/Counselor II shall provide one hundred (100) DSH per month or one
 36 thousand two hundred (1,200) DSH annually during the term of the Contract.

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1 b. FSP Supervisor shall provide sixty (60) DSH per month or seven hundred twenty (720)
2 DSH annually during the term of the Contract.

3 c. Licensed Clinical Supervisor shall provide forty (40) DSH per month or four hundred
4 eighty (480) DSH annually during the term of the Contract.

5 d. Transition Coordinator shall provide eighty (80) DSH per month or nine hundred sixty
6 (960) DSH annually during the term of the Contract.

7 e. Service Coordinator shall provide eighty (80) DSH per month or nine hundred sixty
8 (960) DSH annually during the term of the Contract.

9 f. Career and Education Specialist shall provide eighty (80) DSH per month or nine
10 hundred sixty (960) DSH annually during the term of the Contract.

11 g. Peer Support Partner shall provide eighty (80) DSH per month or nine hundred sixty
12 (960) DSH annually during the term of the Contract.

13 h. Licensed Assistant Program Director shall provide forty (40) DSH per month or four
14 hundred eighty (480) DSH annually during the term of the Contract.

15 5. CONTRACTOR understands and agrees that this is a minimum standard and shall make
16 every effort to exceed this minimum.

17 6. CONTRACTOR shall maintain an ongoing minimum caseload of one hundred sixty (160)
18 unduplicated Clients/Client families throughout the term of the Contract, unless otherwise approved by
19 ADMINISTRATOR.

20 7. CONTRACTOR shall provide a minimum of six thousand seven hundred (6,700) Face-to-
21 Face Contacts with Clients/Client families per year for FSP services.

22 8. CONTRACTOR shall ensure a Face-to-Face Contact weekly for every Client and/or their
23 family admitted to the program, unless written exception is granted by ADMINISTRATOR.

24 9. CONTRACTOR shall provide Face-to-Face Contact within three (3) business days of
25 Client's Referral for services.

26 10. STUDENT INTERNS

27 a. CONTRACTOR may augment the above paid staff with volunteers or interns upon
28 written approval of ADMINISTRATOR.

29 1) CONTRACTOR shall meet minimum requirements for supervision of each Student
30 Intern as required by the State Licensing Board and/or school program descriptions or work contracts.

31 2) Student Intern services shall not comprise more than twenty percent (20%) of total
32 services provided.

33 b. CONTRACTOR shall provide a minimum of two (2) hours per week supervision to
34 each Student Intern providing Mental Health Services and one (1) hour of supervision for each ten (10)
35 hours of treatment for Student Interns providing substance abuse services. CONTRACTOR shall
36 provide supervision to volunteers as specified in the respective job descriptions or work contracts.

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1 O. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
2 Staffing Paragraph of this Exhibit A to the Contract.

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1 EXHIBIT B
2 TO CONTRACT FOR PROVISION OF
3 COLLABORATIVE COURTS FULL SERVICE PARTNERSHIP SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 WAYMAKERS
8 JULY 1, 2020 THROUGH JUNE 30, 2023
9

10 **I. BUSINESS ASSOCIATE CONTRACT**

11 **A. GENERAL PROVISIONS AND RECITALS**

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

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

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

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

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

32 6. The parties understand that the HIPAA Privacy and Security rules, as defined below in
33 Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the
34 covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the
35 terms of this Business Associate Contract, as it exists now or be hereafter updated with notice to
36 CONTRACTOR, and the applicable standards, implementation specifications, and requirements of the
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1 Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and
2 electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Contract.

3 B. DEFINITIONS

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

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

10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 D. SECURITY RULE

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

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

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

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

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

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

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

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

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

4 E. DATA SECURITY REQUIREMENTS

5 1. Personal Controls

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

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

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

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

31 2. Technical Security Controls

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

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

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

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

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

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

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

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

1 3) Arabic numerals (0-9)

2 4) Non-alphanumeric characters (punctuation symbols)

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

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

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

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

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

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

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

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1 3. Audit Controls

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

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

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

15 4. Business Continuity/Disaster Recovery Control

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

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

28 5. Paper Document Controls

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

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

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

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

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

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

19 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

35 b. Any other information that COUNTY is required to include in the notification to
36 Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or
37 //

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

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

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

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

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

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

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

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

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

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

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

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

1 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

11 1) The Disclosure is required by law; or

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

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

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

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

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

26 H. PROHIBITED USES AND DISCLOSURES

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

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

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1 I. OBLIGATIONS OF COUNTY

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

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

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

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

13 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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1 EXHIBIT C
2 TO CONTRACT FOR PROVISION OF
3 COLLABORATIVE COURTS FULL SERVICE PARTNERSHIP SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 WAYMAKERS
8 JULY 1, 2020 THROUGH JUNE 30, 2023
9

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

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

13 A. DEFINITIONS

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

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

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

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

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

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

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

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

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

1 information, and a civil or an authorized investigative demand. It also includes Medicare conditions of
2 participation with respect to health care providers participating in the program, and statutes or
3 regulations that require the production of information, including statutes or regulations that require such
4 information if payment is sought under a government program providing public benefits.

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

8 B. TERMS OF CONTRACT

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

13 2. Responsibilities of CONTRACTOR

14 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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