

1 AGREEMENT FOR PROVISION OF
2 BEHAVIORAL HEALTH RECUPERATIVE CARE SERVICES
3 BETWEEN
4 COUNTY OF ORANGE
5 AND
6 HURTT FAMILY HEALTH CLINIC, INC.
7 JULY 1, 2019 THROUGH DECEMBER 31, 2020
8

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

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

17 WHEREAS, California's Section 1115(a) Medicaid Waiver Renewal, entitled Medi-Cal 2020, was
18 approved by the Centers for Medicare and Medicaid Services on December 30, 2015 and included
19 funding for a Whole Person Care (WPC) Pilot Program; and,

20 WHEREAS, the California the Department of Health Care Services (DHCS) published a Request
21 for Application (RFA) relating to the WPC Pilot Program on May 16, 2016; and,

22 WHEREAS, COUNTY agreed to act as the Lead Entity and submitted a WPC Pilot Application
23 which was accepted by DHCS on October 24, 2016 and,

24 WHEREAS, on March 15, 2019, DHCS made available additional WPC funding to Lead Entities
25 and COUNTY submitted a proposal which was accepted by DHCS on May 30, 2019; and

26 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of certain direct
27 patient care and administrative support functions to the WPC Pilot Program described herein; and,

28 WHEREAS, CONTRACTOR is agreeable to the rendering of such services pursuant to the terms
29 and conditions hereinafter set forth;

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

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REFERENCED CONTRACT PROVISIONS

Term: July 1, 2019 through December 31, 2020

Period One means the period from July 1, 2019 through December 31, 2019

Period Two means the period from January 1, 2020 through December 31, 2020

Maximum Obligation: \$1,998,660

Period One Maximum Obligation: \$ 666,220

Period Two Maximum Obligation: 1,332,440

TOTAL MAXIMUM OBLIGATION: \$ 1,998,660

Basis for Reimbursement: Negotiated Rate, Fee for Service

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 00-867-8059

CONTRACTOR TAX ID Number: 33-0906866

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: Hurtt Family Health Clinic, Inc.
One Hope Drive
Tustin, CA 92782
Attention: Jim Palmer, President & CEO
Jim.palmer@rescuemission.org

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I. ACRONYMS

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

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4	A. AA	Alcoholics Anonymous
5	B. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
6	C. ABC	Allied Behavioral Care
7	D. ACH	Acute Care Hospital
8	E. ADAS	Alcohol and Drug Abuse Services
9	F. ADL	Activities of Daily Living
10	G. ADP	Alcohol and Drug Program
11	H. AES	Advanced Encryption Standard
12	I. AFLP	Adolescent Family Life Program
13	J. AIDS	Acquired Immune Deficiency Syndrome
14	K. AIM	Access for Infants and Mothers
15	L. AMHS	Adult Mental Health Services
16	M. ARRA	American Recovery and Reinvestment Act of 2009
17	N. ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
18	O. ASI	Addiction Severity Index
19	P. ASIST	Applied Suicide Intervention Skills Training
20	Q. ASO	Administrative Services Organization
21	R. ASRS	Alcohol and Drug Programs Reporting System
22	S. BBS	Board of Behavioral Sciences
23	T. BCP	Business Continuity Plan
24	U. BH	Base Hospital
25	V. BHS	Behavioral Health Services
26	W. CalOMS	California Outcomes Measurement System
27	X. CalWORKs	California Work Opportunity and Responsibility for Kids
28	Y. CAP	Corrective Action Plan
29	Z. CAT	Centralized Assessment Team
30	AA.CCC	California Civil Code
31	AB.CCLD	(California) Community Care Licensing Division
32	AC.CCR	California Code of Regulations
33	AD.CDCR	California Department of Corrections and Rehabilitation
34	AE.CDSS	California Department of Social Services
35	AF.CERC	Children's Emergency Receiving Center
36	AG.CESI	Client Evaluation of Self at Intake
37	AH.CEST	Client Evaluation of Self and Treatment

1	AI. CFDA	Catalog of Federal Domestic Assistance
2	AJ. CFR	Code of Federal Regulations
3	AK.CHDP	Child Health and Disability Prevention
4	AL. CHHS	California Health and Human Services Agency
5	AM. CHPP	COUNTY HIPAA Policies and Procedures
6	AN. CHS	Correctional Health Services
7	AO. CIPA	California Information Practices Act
8	AP. CMPPA	Computer Matching and Privacy Protection Act
9	AQ.COI	Certificate of Insurance
10	AR.CPA	Certified Public Accountant
11	AS. CSI	Client and Services Information
12	AT.CSW	Clinical Social Worker
13	AU.CYBHS	Children and Youth Behavioral Health Services
14	AV.DATAR	Drug Abuse Treatment Access Report
15	AW. DCR	Data Collection and Reporting
16	AX.DD	Dually Diagnosed
17	AY.DEA	Drug Enforcement Agency
18	AZ. DHCS	California Department of Health Care Services
19	BA.D/MC	Drug/Medi-Cal
20	BB. DMV	California Department of Motor Vehicles
21	BC. DoD	US Department of Defense
22	BD.DPFS	Drug Program Fiscal Systems
23	BE. DRC	Probation's Day Reporting Center
24	BF. DRP	Disaster Recovery Plan
25	BG.DRS	Designated Record Set
26	BH.DSM	Diagnostic and Statistical Manual of Mental Disorders
27	BI. DSM-IV	Diagnostic and Statistical Manual of Mental Disorders. 4 th Edition
28	BJ. DSM-V	Diagnostic and Statistical Manual of Mental Disorders. 5 th Edition
29	BK.EBP	Evidence-Based Practice
30	BL. EDN	Electronic Disease Notification System
31	BM. EEOC	Equal Employment Opportunity Commission
32	BN.EHR	Electronic Health Records
33	BO.ePHI	Electronic Protected Health Information
34	BP. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
35	BQ.ERC	Emergency Receiving Center
36	BR. FFS	Fee For service
37	BS. FIPS	Federal Information Processing Standards

1	BT.FQHC	Federally Qualified Health Center
2	BU.FSP	Full Service Partnership
3	BV.FTE	Full Time Equivalent
4	BW.GAAP	Generally Accepted Accounting Principles
5	BX.HAB	Federal HIV/AIDS Bureau
6	BY.HCA	County of Orange Health Care Agency
7	BZ.HHS	Federal Health and Human Services Agency
8	CA.HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
9		Law 104-191
10	CB.HITECH	Health Information Technology for Economic and Clinical Health
11		Act, Public Law 111-005
12	CC.HIV	Human Immunodeficiency Virus
13	CD.HRSA	Federal Health Resources and Services Administration
14	CE.HSC	California Health and Safety Code
15	CF.IBNR	Incurred But Not Reported
16	CG.ID	Identification
17	CH.IEA	Information Exchange Agreement
18	CI.IMD	Institute for Mental Disease
19	CJ.IOM	Institute of Medicine
20	CK.IRIS	Integrated Records and Information System
21	CL.ISO	Insurance Services Office
22	CM.ITC	Indigent Trauma Care
23	CN.LCSW	Licensed Clinical Social Worker
24	CO.LGBTQI	Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex
25	CP.LPS	Lanterman/Petris/Short (Act)
26	CQ.LPT	Licensed Psychiatric Technician
27	CR.MAT	Medication Assisted Treatment
28	CS.MEDS	Medi-Cal Eligibility Determination System
29	CT.MFT	Marriage and Family Therapist
30	CU.MH	Mental Health
31	CV.MHIS	Mental Health Inpatient Services
32	CW.MIHS	Medical and Institutional Health Services
33	CX.MHP	Mental Health Plan
34	CY.MHRC	Mental Health Rehabilitation Centers
35	CZ.MHS	Mental Health Specialist
36	DA.MHSA	Mental Health Services Act
37	DB.MORS	Milestones of Recovery Scale

1	DC.MS	Mandatory Supervision
2	DD.MTP	Master Treatment Plan
3	DE.NA	Narcotics Anonymous
4	DF. NIATx	Network Improvement of Addiction Treatment
5	DG. NIH	National Institutes of Health
6	DH. NIST	National Institute of Standards and Technology
7	DI. NOA	Notice of Action
8	DJ. NP	Nurse Practitioner
9	DK. NPDB	National Provider Data Bank
10	DL.NPI	National Provider Identifier
11	DM. NPP	Notice of Privacy Practices
12	DN. OCEMS	Orange County Emergency Medical Services
13	DO. OCJS	Orange County Jail System
14	DP. OC-MEDS	Orange County Medical Emergency Data System
15	DQ. OCPD	Orange County Probation Department
16	DR.OCR	Federal Office for Civil Rights
17	DS. OCSD	Orange County Sheriff's Department
18	DT. OIG	Federal Office of Inspector General
19	DU. OMB	Federal Office of Management and Budget
20	DV. OPM	Federal Office of Personnel Management
21	DW. ORR	Federal Office of Refugee Resettlement
22	DX. P&P	Policy and Procedure
23	DY. PA DSS	Payment Application Data Security Standard
24	DZ. PAF	Partnership Assessment Form
25	EA. PAR	Prior Authorization Request
26	EB. PBM	Pharmaceutical Benefits Management
27	EC. PC	California Penal Code
28	ED. PCI DSS	Payment Card Industry Data Security Standard
29	EE. PCP	Primary Care Provider
30	EF. PCS	Post-Release Community Supervision
31	EG. PHI	Protected Health Information
32	EH. PI	Personal Information
33	EI. PII	Personally Identifiable Information
34	EJ. PRA	California Public Records Act
35	EK. PSAI/ACT	Perinatal Substance Abuse Services Initiative/Assessment and Coordination
36		Team
37	EL. PSC	Professional Services Contract

1	EM. PTRC	Paramedic Trauma Receiving Center
2	EN. QI	Quality Improvement
3	EO. QIC	Quality Improvement Committee
4	EP. RHAP	Refugee Health Assessment Program
5	EQ. RHEIS	Refugee Health Electronic Information System
6	ER. RN	Registered Nurse
7	ES. RSA	Remote Site Access
8	ET. SAPTBG	Substance Abuse Prevention and Treatment Block Grant
9	EU. SD/MC	Short-Doyle Medi-Cal
10	EV. SIR	Self-Insured Retention
11	EW. SMA	Statewide Maximum Allowable (rate)
12	EX. SNF	Skilled Nursing Facility
13	EY. SR	Supervised Release
14	EZ. SRP	Supervised Release Participant
15	FA. SSA	County of Orange Social Services Agency
16	FB. SSI	Supplemental Security Income
17	FC. STP	Special Treatment Program
18	FD. SUD	Substance Use Disorder
19	FE. TAR	Treatment Authorization Request
20	FF. TAY	Transitional Age Youth
21	FG. TB	Tuberculosis
22	FH. TBS	Therapeutic Behavioral Services
23	FI. TRC	Therapeutic Residential Center
24	FJ. TTY	Teletypewriter
25	FK. TUPP	Tobacco Use Prevention Program
26	FL. UMDAP	Uniform Method of Determining Ability to Pay
27	FM. UOS	Units of Service
28	FN. USC	United States Code
29	FO. VOLAGs	Volunteer Agencies
30	FP. W&IC	California Welfare and Institutions Code
31	FQ. WIC	Women, Infants and Children

II. ALTERATION OF TERMS

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

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

5
6 **III. ASSIGNMENT OF DEBTS**

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

14
15 **IV. COMPLIANCE**

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

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

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

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

35 3. If CONTRACTOR does not provide proof of its own compliance program to
36 ADMINISTRATOR, CONTRACTOR shall internally comply with ADMINISTRATOR’s Compliance
37 Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within

1 thirty (30) calendar days of execution of this Agreement a signed acknowledgement that
2 CONTRACTOR will internally comply with ADMINISTRATOR’s Compliance Program and Code of
3 Conduct. CONTRACTOR shall have as many Covered Individuals it determines necessary to complete
4 ADMINISTRATOR’s annual compliance training to ensure proper compliance.

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

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

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

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

37 //

1 2. An Ineligible Person shall be any individual or entity who:
 2 a. Is currently excluded, suspended, debarred or otherwise ineligible to participate in
 3 federal and state health care programs; or
 4 b. Has been convicted of a criminal offense related to the provision of health care items or
 5 services and has not been reinstated in the federal and state health care programs after a period of
 6 exclusion, suspension, debarment, or ineligibility.

7 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
 8 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
 9 Agreement.

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

16 5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any
 17 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.
 18 CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual providing
 19 services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an
 20 Ineligible Person.

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

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

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

36 1. CONTRACTORS that have acknowledged to comply with ADMINISTRATOR's
 37 Compliance Program shall use its best efforts to encourage completion by all Covered Individuals;

1 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated
2 representative to complete the General Compliance Training when offered.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 3. CONTRACTOR shall bill only for those eligible services actually rendered which are also
37 fully documented. When such services are coded, CONTRACTOR shall use proper billing codes which

1 accurately describes the services provided and must ensure compliance with all billing and
2 documentation requirements.

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

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

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

13
14 **V. CONFIDENTIALITY**

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

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

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

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

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

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VI. CONFLICT OF INTEREST

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

VII. DEBARMENT AND SUSPENSION CERTIFICATION

A. CONTRACTOR certifies that it and its principals:

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

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

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

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

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

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

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

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VIII. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31
32 **IX. DISPUTE RESOLUTION**

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

37 //

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

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

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

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

17 D. This Agreement has been negotiated and executed in the State of California and shall be
18 governed by and construed under the laws of the State of California. In the event of any legal action to
19 enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent
20 jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit
21 to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the
22 Parties specifically agree to waive any and all rights to request that an action be transferred for
23 adjudication to another county. Nothing contained herein shall be construed to limit either party's right
24 to commence legal action in a court of competent jurisdiction located in Orange County, California to
25 enforce or interpret this Agreement within the applicable statute of limitations.

26
27 **X. EMPLOYEE ELIGIBILITY VERIFICATION**

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

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XI. FACILITIES, PAYMENTS AND SERVICES

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

B. CONTRACTOR shall, at its own expense, provide and maintain the organizational and administrative capabilities required to carry out its duties and responsibilities under this Agreement and in accordance with all the applicable statutes and regulations.

XII. INDEMNIFICATION AND INSURANCE

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

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

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

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

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

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

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

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

17 F. QUALIFIED INSURER

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

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

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

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1	<u>Coverage</u>	<u>Minimum Limits</u>
2	Commercial General Liability	\$1,000,000 per occurrence
3		\$2,000,000 aggregate
4		
5	Automobile Liability including coverage	\$1,000,000 per occurrence
6	for owned, non-owned, and hired vehicles	
7		
8	Workers' Compensation	Statutory
9		
10	Employers' Liability Insurance	\$1,000,000 per occurrence
11		
12	Network Security & Privacy Liability	\$1,000,000 per claims made
13		
14	Professional Liability Insurance	\$1,000,000 per claims made
15		\$1,000,000 aggregate
16		
17	Sexual Misconduct Liability	\$1,000,000 per occurrence
18		

19 H. REQUIRED COVERAGE FORMS

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

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

24 I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

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

19 N. If CONTRACTOR’s Professional Liability, Technology Errors & Omissions and/or Network
20 Security & Privacy Liability are “Claims -Made” policies, CONTRACTOR shall agree to maintain
21 coverage for two (2) years following the completion of the Agreement.

22 O. The Commercial General Liability policy shall contain a “severability of interests” clause also
23 known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

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

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

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

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

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

4 U. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

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

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

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

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

28
29 **XIII. INSPECTIONS AND AUDITS**

30 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
31 of the State of California, the Secretary of the United States Department of Health and Human Services,
32 the Comptroller General of the United States, or any other of their authorized representatives, shall to
33 the extent permissible under applicable law have access to any books, documents, and records, including
34 but not limited to, financial statements, general ledgers, relevant accounting systems, medical and Client
35 records, of CONTRACTOR that are directly pertinent to this Agreement, for the purpose of responding
36 to a beneficiary complaint or conducting an audit, review, evaluation, or examination, or making
37 transcripts during the periods of retention set forth in the Records Management and Maintenance

1 Paragraph of this Agreement. Such persons may at all reasonable times inspect or otherwise evaluate
2 the services provided pursuant to this Agreement, and the premises in which they are provided, upon no
3 less than forty-eight (48) hours notice to CONTRACTOR, during its normal business hours.

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

8 C. AUDIT RESPONSE

9 1. Following an audit report, in the event of non-compliance with applicable laws and
10 regulations, COUNTY may terminate this Agreement as provided for in the Termination Paragraph or
11 direct CONTRACTOR to immediately implement appropriate corrective action. A CAP shall be
12 submitted to ADMINISTRATOR in writing within thirty (30) calendar days after receiving notice from
13 ADMINISTRATOR.

14 2. If the audit reveals that money is payable from one Party to the other, that is,
15 reimbursement by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to
16 CONTRACTOR, said funds shall be due and payable from one Party to the other within sixty (60)
17 calendar days of receipt of the audit results. If reimbursement is due from CONTRACTOR to
18 COUNTY, and such reimbursement is not received within said sixty (60) calendar days, COUNTY may,
19 in addition to any other remedies provided by law, reduce any amount owed CONTRACTOR by an
20 amount not to exceed the reimbursement due COUNTY.

21 D. CONTRACTOR shall not be subject to disallowances as a result of audits of the provision of
22 services under this Agreement.

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

27
28 **XIV. LICENSES AND LAWS**

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

37 //

1 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

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

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

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

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

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

- 21 1. ARRA of 2009.
- 22 2. Title 22, CCR, §51009, Confidentiality of Records.
- 23 3. California Welfare and Institutions Code, §14100.2, Medicaid Confidentiality.
- 24 4. Federal Medicare Cost reimbursement principles and cost reporting standards.
- 25 5. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
- 26 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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

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

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

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

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

12 E. CONTRACTOR shall also include any required funding statement information on social media
13 when required by ADMINISTRATOR

14
15 **XVI. MAXIMUM OBLIGATION**

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

20 B. ADMINISTRATOR may amend the Maximum Obligation by an amount not to exceed ten
21 percent (10%) of the first twelve (12) months of funding for this Agreement.

22 C. At sole discretion of ADMINISTRATOR, ADMINISTRATOR may increase or decrease the
23 Period One and Period Two Maximum Obligations, provided the total of these Maximum Obligations
24 does not exceed the Total Maximum Obligation of COUNTY as specified in the Referenced Contract
25 Provisions of this Agreement.

26
27 **XVII. MINIMUM WAGE LAWS**

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

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

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

5
6 **XVIII. NONDISCRIMINATION**

7 **A. EMPLOYMENT**

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

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

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

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

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

34 6. Each labor union or representative of workers with which CONTRACTOR and/or
35 subcontractor has a collective bargaining agreement or other contract or understanding must post a
36 notice advising the labor union or workers' representative of the commitments under this
37 //

1 Nondiscrimination Paragraph and shall post copies of the notice in conspicuous places, available to
2 employees and applicants for employment.

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

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

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

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

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

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

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

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

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

14
15 **XIX. NOTICES**

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

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

21 2. When faxed, transmission confirmed;

22 3. When sent by Email; or

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

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

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

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

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XX. NOTIFICATION OF DEATH

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

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

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

2. WRITTEN NOTIFICATION

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

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

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

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

XXI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS

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

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

XXII. RECORDS MANAGEMENT AND MAINTENANCE

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

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

4 2. CONTRACTOR shall 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 Agreement and in accordance with principles
7 of reimbursement and GAAP.

8 3. 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
13 safeguards to ensure the privacy of PHI and prevent the intentional or unintentional use or disclosure of
14 PHI in violation of the HIPAA, federal and state regulations. CONTRACTOR shall mitigate to the
15 extent practicable, the known harmful effect of any use or disclosure of PHI made in violation of federal
16 or state 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
19 and implement written record management procedures.

20 D. CONTRACTOR shall retain all financial records for a minimum of seven (7) 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
24 following 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 Agreement, within forty-eight (48) hours. CONTRACTOR shall provide ADMINISTRATOR
32 all 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:

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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 Agreement 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
12 terminal.

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

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

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

22
23 **XXIII. RESEARCH AND PUBLICATION**

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

27
28 **XXIV. SEVERABILITY**

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

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XXV. SPECIAL PROVISIONS

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

- 1. Making cash payments to intended recipients of services through this Agreement.
- 2. Lobbying any governmental agency or official. CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).
- 3. Fundraising.
- 4. Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR’s staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body.
- 5. Reimbursement of CONTRACTOR’s members of the Board of Directors or governing body for expenses or services.
- 6. Making personal loans to CONTRACTOR’s staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body, or its designee or authorized agent, or making salary advances or giving bonuses to CONTRACTOR’s staff.
- 7. Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at www.opm.gov.

XXVI. STATUS OF CONTRACTOR

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

XXVII. TERM

A. The term of this Agreement shall commence as specified in the Referenced Contract Provisions of this Agreement or the execution date, whichever is later. This Agreement shall terminate as specified in the Referenced Contract Provisions of this Agreement unless otherwise sooner terminated as provided

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

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

6
7 **XXVIII. TERMINATION**

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

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

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

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

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

36 E. CONTINGENT FUNDING

37 //

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

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

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

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

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

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

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

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

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

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

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

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

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

37 //

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

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

7
8 **XXIX. THIRD PARTY BENEFICIARY**

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

12
13 **XXX. WAIVER OF DEFAULT OR BREACH**

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

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

3 HURTT FAMILY HEALTH CLINIC, INC.

4
5 DocuSigned by:
6 BY: Jim Palmer _____ DATED: 6/20/2019
7 B0E94444A23446F...

8 TITLE: Chairman
9

10
11 BY: _____ DATED: _____

12
13 TITLE: _____
14

15
16 COUNTY OF ORANGE

17
18
19 BY: _____ DATED: _____

20 HEALTH CARE AGENCY

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

26
27 DocuSigned by:
28 BY: Brittany McLean _____ DATED: 6/20/2019
29 9713A4081D4343D...
30 DEPUTY

31
32
33 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
34 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
35 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution
36 or by-laws whereby the Board of Directors has empowered said authorized individual to act on its behalf by his or her
37 signature alone is required by ADMINISTRATOR.

1 EXHIBIT A
2 AGREEMENT FOR PROVISION OF
3 BEHAVIORAL HEALTH RECUPERATIVE CARE SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 HURTT FAMILY HEALTH CLINIC, INC.
8 JULY 1, 2019 THROUGH DECEMBER 31, 2020
9

10 **I. COMMON TERMS AND DEFINITIONS**

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

13 1. "Activities of Daily Living" or "ADLs" means eating, bathing, dressing, toileting (being
14 able to get on and off the toilet and perform personal hygiene functions), transferring (being able to get
15 in and out of bed or chair without assistance), and maintaining continence (being able to control bladder
16 and bowel functions).

17 2. "Beneficiary" means a person, enrolled in Orange County's Managed Care Plan and
18 meeting the Medi-Cal eligibility requirements set forth in the California's Medicaid State Plan based on
19 the requirements set forth in Title XIX of the Social Security Act.

20 3. "CalOptima" means Managed Care Plan contracting with DHCS to administer the Medi-
21 Cal Program in Orange County.

22 4. "Homeless Management Information System" or "HMIS" means the regional (Orange
23 County) database of participants and services providers that track service needs and usage for homeless
24 and those at risk of becoming homeless.

25 5. "Intermediary" means the organization, under a separate agreement, and any amendments
26 thereto, with COUNTY, contracted to act as a fiscal intermediary for the purpose of reimbursing
27 CONTRACTOR for Recuperative Care Services.

28 6. "Recuperative Care" or "Medical Respite Care" means short-term care and case
29 management provided to individuals recovering from an acute illness or injury that generally does not
30 necessitate hospitalization, but would be exacerbated by the individuals' living conditions (e.g., street,
31 shelter, or other unsuitable places).

32 7. "Special Terms and Conditions" or "STCs" means the document (Number 11-W-00193/9),
33 issued by the Centers for Medicare & Medicaid Services (CMS) to the DHCS (State), setting forth the
34 conditions and limitations on the State's 1115(a) Medicaid Demonstration Waiver, known as "Medi-Cal
35 2020." The document describes in detail the nature, character and extent of CMS involvement in the
36 Waiver and the State's obligations to CMS. The Parties acknowledge that requirements in the STCs,
37 //

1 including any official amendments or clarifications thereto, relating to the WPC Pilot Program shall be
2 deemed as COUNTY’s obligation to the State.

3 8. “Whole Person Care Pilot Program” or “WPC Pilot” or “WPC Program” means the specific
4 program proposed by COUNTY and the WPC Collaborative in response to a Request for Applications
5 released by DHCS to address the specific requirements in the STCs commencing with STC 110, which
6 allows for financial support to integrate care for a particularly vulnerable group of Beneficiaries who
7 have been identified as high users of multiple systems and continue to have poor health outcomes.

8 9. “WPC Agreement” means the agreement between COUNTY and DHCS for participation in
9 the WPC Pilot Program effective for services provided November 29, 2016 through December 31, 2020,
10 as it exists now or may hereafter be amended, describing how the WPC Pilot Program will be
11 implemented in Orange County.

12 10. “WPC CalOptima Recuperative Care Agreement” means the Agreement between the
13 COUNTY and CalOptima for reimbursement of recuperative care bed days.

14 11. “WPC Collaborative” means the group of community partners, public agencies or
15 departments, and other organizations responsible who have agreed to come together to share financial,
16 knowledge, and human resources to collectively achieve the desired outcomes of the WPC Pilot
17 Program.

18 12. “WPC Beneficiary” or “Participant” means a Beneficiary who is eligible to receive services
19 provided by the WPC Program and has been identified as being homeless. For the purposes of the WPC
20 Pilot, “being homeless” describes individuals or families who:

- 21 a. Lack a fixed, regular, and adequate nighttime residence; or,
- 22 b. Have a primary nighttime residence that is a public or private place not designed for, or
23 ordinarily used as, a regular sleeping accommodation for human beings, including a car, park,
24 abandoned building, bus or train station, airport, or camping ground; or,
- 25 c. Are living in a supervised publicly or privately operated shelter designated to provide
26 temporary living arrangements (including hotels and motels paid for by federal, State, or local
27 government programs for low-income individuals or by charitable organizations), congregate shelters,
28 and transitional housing; or,
- 29 d. Reside in a shelter or place not meant for human habitation and is exiting an institution
30 where he or she temporarily resided; or,
- 31 e. Otherwise meet the definition of 42 U.S. Code Sections 11302(a) (5), (6) or (b).

32 13. “WPC Participating Entity” means an organization, entity, or public agency or department
33 that has agreed to have an active role in the WPC Pilot through agreements or memoranda of
34 understanding with COUNTY acting as the Lead Agency for the WPC Pilot.

35 14. “WPC Steering Committee” means an advisory committee established in accordance with a
36 directive from COUNTY’s Board of Supervisors to provide high-level support, advocacy, and
37 enablement for the WPC Pilot Project.

1 B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
2 Common Terms and Definitions Paragraph of this Exhibit A to the Agreement.

3
4 **II. WPC PILOT PROGRAM – BEHAVIORAL HEALTH RECUPERATIVE CARE**
5 **SERVICES**

6 A. CONTRACTOR and COUNTY agree that the overarching goal of the Behavioral Health
7 Recuperative Care Whole Person Care (WPC) Pilot Program is the successful coordination of health,
8 behavioral health, and social services, as applicable, in a participant-centered manner for participants
9 that are living with behavioral health issues that affect their ability to adjust to living within a sheltered
10 setting with the goals of improved beneficiary health and wellbeing through more efficient and effective
11 use of resources.

12 B. COUNTY understands that Recuperative Care programs often exist as partnerships between
13 two or more organizations that together provide the clinical care, physical space, and supportive
14 services.

15 C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the WPC
16 Pilot Program – Behavioral Health Recuperative Care Services Paragraph of this Exhibit A to the
17 Agreement.

18
19 **III. CONTRACTOR OBLIGATIONS**

20 A. CONTRACTOR shall provide a safe, stable and supportive place to recover from illness or
21 injury.

22 B. CONTRACTOR shall provide life skills trainings, coaching sessions and coaching as necessary
23 to better enable the participant to integrate successfully into more crowded congregate settings such as
24 shelters and other shared living spaces. This could include skills required to live indoors and in
25 sheltered spaces, using indoor restrooms appropriately, following shared space rules and expectations,
26 home cleaning skills and techniques, personal hygiene skills, communication and anger management
27 skills, etc.

28 C. CONTRACTOR shall attempt to reduce the triggers that impact the participant’s desire to not
29 remain in the shelter or behaviors that usually result in a participant being asked to leave a traditional
30 shelter.

31 D. CONTRACTOR will educate participants on how to manage feelings and chronic health
32 conditions to reduce or avoid calling emergency services.

33 E. CONTRACTOR as part of the admission process, participant will be provided with a written
34 list of rules and expectations of the program as part of the intake process.

35 F. CONTRACTOR shall ensure the participant is seen by their primary care provider, which may
36 include helping the participant to select a primary care provider. Contractor shall enlist the assistance of
37 CalOptima when appropriate to help the participant get timely access to care.

1 G. CONTRACTOR shall coordinate with BHS for known or suspected substance use by
2 participants to ensure the most appropriate course of care can be provided while the participant is
3 receiving recuperative care services.

4 H. CONTRACTOR shall provide reasonable non-medical, non-mental health, transportation
5 options to participants.

6 I. CONTRACTOR shall educate each participant on the specifics of their medical and/or
7 behavioral health issues and needs designed to prevent the need for future emergency room or inpatient
8 hospital stays, or shelter placement failures.

9 J. CONTRACTOR shall coordinate with COUNTY BHS, including services that can be offered
10 by CONTRACTOR, if any, to support the efforts of COUNTY BHS while the participant is receiving
11 recuperative care services. All onsite support services shall be provided in coordination with BHS and
12 overall treatment goals.

13 K. CONTRACTOR shall link participants to COUNTY SSA for benefits including, but not limited
14 to SSI, disability, veteran’s benefits, and renewing/sustaining their Medi-Cal.

15 L. CONTRACTOR shall coordinate with COUNTY BHS a discharge plan for the participant’s
16 discharge from recuperative care that shall be shared with the participant, the participant’s primary care
17 provider, and other providers involved in the Whole Person Care Plan of the participant, as appropriate.

18 M. CONTRACTOR if possible shall facilitate the participant’s connection with family. COUNTY
19 HCA BHS Outreach and Engagement can assist with homeward bound bus/train transportation as
20 needed and while funds are available.

21 N. CONTRACTOR will complete outcome measures on all incoming and ongoing participants in
22 the recuperative care program as specified by COUNTY HCA BHS.

23 O. CONTRACTOR will include a tool to demonstrate impact of program services to measure
24 reduction of symptoms or behaviors. Outcome tools currently being used include the Outcome
25 Questionnaire (OQ), but can be discussed with ADMINISTRATOR. All outcome tools used to
26 demonstrate impact shall be approved by ADMINISTRATOR.

27 P. CONTRACTOR shall administer a PHQ-9 Evaluation.

28 Q. CONTRACTOR shall establish a grievance policy and system to allow participants a
29 mechanism to have their voices heard if they are unhappy with program systems or services.
30 CONTRACTOR will establish an external method for submitting grievances to avoid participants
31 needing to submit complaints to direct program staff onsite.

32 R. CONTRACTOR shall follow the October 2016, Standards for Medical Respite Care Programs,
33 issued by the National Health Care for the Homeless Council through funding by HRSA and can be
34 found at: www.nhchc.org/wp-content/uploads/2011/09/medical_respite_standards_oct2016.pdf.

35 S. CONTRACTOR shall make available twenty (20) beds for Participants receiving services under
36 this Agreement, throughout the term of this Agreement.

37 //

1 T. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
2 CONTRACTOR Obligations Paragraph of this Exhibit A to the Agreement.

3
4 **IV. ADMINISTRATOR OBLIGATIONS**

5 A. ADMINISTRATOR shall provide oversight of the WPC Pilot Program, including appropriate
6 program administration, coordination, planning, evaluation, financial and contract monitoring.

7 B. ADMINISTRATOR shall support and provide direction to WPC Participating Entities, as
8 appropriate, with guidance from the WPC Collaborative regarding dissemination of public information
9 and referral, and review and analysis of data gathered and reported.

10 C. ADMINISTRATOR shall notify CONTRACTOR, immediately upon becoming aware of any
11 amendments, modifications, changes, or updates to the STCs or the WPC Agreement. When available,
12 ADMINISTRATOR shall provide CONTRACTOR with a copy of the STCs and the WPC Agreement,
13 including any written amendments, modifications, changes or updates.

14 D. ADMINISTRATOR agrees that any administrative duty or obligation to be performed pursuant
15 to this Agreement on a weekend or holiday may be performed on the next regular business day.

16 E. ADMINISTRATOR may authorize admission or stays beyond the initial ninety (90) bed day
17 stay for up to an additional ninety (90) bed days for WPC Beneficiaries who do not meet the medical
18 necessity criteria usually required for recuperative care services, but who have circumstances that
19 warrant their admission or continued stay. Such cases shall include: IV Chemotherapy – Admission or
20 authorized extended stays while the Participant is receiving treatment and may include days following
21 the last administered dose of chemotherapy to ensure the Participant is not at risk for further
22 deterioration of health due to the side-effects of their chemotherapy; Other medical or mental health
23 circumstances subject to the approval of ADMINISTRATOR and CalOptima.

24 F. ADMINISTRATOR may have need to admit a Participant to Recuperative Care to ensure
25 required monitoring of a medical condition that, if left unmonitored, would result in a serious
26 deterioration of the Participant’s health.

27 G. ADMINSTRATOR shall ensure, for the term of this Agreement, that the overall occupancy rate
28 shall be at an average of eighty percent (80%).

29 H. ADMINISTRATOR Behavioral Health Services staff will screen, assess, and develop a mental
30 health treatment plan for each Participant with ongoing case management.

31 I. ADMINISTRATOR and CONTRACTOR shall mutually develop processes for the following:
32 1. Connect Participant and/or CONTRACTOR to resources for transportation to assist the
33 Participant in making all medical, mental health and supportive health care service appointments.
34 2. Connect Participants to COUNTY SSA for benefits assessment.
35 3. Link Participant to the COUNTY Coordinated Entry System (CES) inclusive of HMIS and
36 including administering the Vulnerability Index-Service Prioritization Decision Assistance Tool (VI-
37 SPDAT) if required.

1 J. ADMINISTRATOR and CONTRACTOR agree that WPC Beneficiaries referred to
2 CONTRACTOR may have a range of medical needs. At any point that CONTRACTOR determines it
3 cannot appropriately meet the medical needs of the Participant, CONTRACTOR shall notify
4 ADMINISTRATOR and facilitate with the transfer of the Participant to a new placement.

5 K. ADMINISTRATOR shall review:

6 1. All admissions into the Recuperative Care Program for medical and mental health necessity
7 and compliance with the standards and guidance of the WPC Collaborative.

8 2. Re-assessments either before, but not later than thirty (30) calendar days into the
9 recuperative care stay, for medical and mental health appropriateness for continued stay in the
10 recuperative care program until discharge.

11 L. COUNTY has confirmed through its Community Resources and Public Works Departments that
12 proposed use of the El Modena site is compliant with the COUNTY covenant.

13 M. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the
14 ADMINISTRATOR Obligations Paragraph of this Exhibit A to the Agreement.

15
16 **V. COMMITTEES/GROUPS**

17 A. The WPC Collaborative shall consist of any community partners, public agencies or
18 departments, and other organizations interested and committed to sharing financial, knowledge, and/or
19 human resources to collectively achieve the desired outcomes of the WPC Pilot Program.

20 1. A member of the WPC Collaborative may also be a WPC Participating Entity.

21 2. The WPC Collaborative may elect to continue past the period of the WPC Agreement if all
22 or a portion of the infrastructure and services developed for the WPC Program are continued through
23 other funding mechanisms following the termination of the WPC Agreement on December 31, 2020.

24 3. The WPC Collaborative shall be responsible for:

25 a. Development and implementation of all policies and procedures relating to the
26 implementation and monitoring of the WPC Program.

27 b. Review and analysis of all data gathered and reported for the WPC Program.

28 c. Participation in the Plan-Do-Study-Act Cycle as required by DHCS.

29 1) Plan – The components of the WPC Program to be implemented.

30 2) Do – The implementation of the components of the WPC Program.

31 3) Study – Reviewing the data and results of the WPC Program components as
32 implemented.

33 4) Act – Determining what modifications should be made, if any, to the WPC
34 Program components to achieve the desired results

35 B. A WPC Steering Committee shall be formed by ADMINISTRATOR, and shall remain in place
36 through December 31, 2020.

37 //

- 1 1. The WPC Steering Committee shall consist of the following members:
- 2 a. COUNTY's Care Coordinator, who shall be the Chairperson
- 3 b. One representative from CalOptima
- 4 c. One representative from the Hospital Community;
- 5 d. One representative from the Clinic Community
- 6 e. One representative from COUNTY's Behavioral Health Services Program
- 7 f. One representative from COUNTY's Public Health Program
- 8 g. One representative from COUNTY's Community Resource Department responsible for
- 9 the housing programs.
- 10 h. One representative from 2-1-1 Orange County
- 11 2. COUNTY's WPC Project Manager shall provide staff support to the WPC Steering
- 12 Committee.

13 C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the

14 Committees/Groups Paragraph of this Exhibit A to the Agreement.

15

16 **VI. FACILITY**

17 A. CONTRACTOR shall maintain at a minimum of one (1) facility appropriate for the provision of

18 Behavioral Health Recuperative Care Services that meets the minimum requirements for the locations

19 designation and/or licensure in accordance with local, state, and federal regulations, as specified below:

20

21 One Hope Drive

22 Tustin, CA 92782

23

24 1. CONTRACTOR shall ensure that any facility utilized to provide services under this

25 Agreement meets the following minimum requirements:

26 a. A habitable setting in which to provide the services, which may include, but not be

27 limited to, freestanding facilities, homeless shelters, motels and transitional housing.

28 b. Preference given to facilities located in Orange County. Facilities within a proximity to

29 Orange County's borders to allow linkage to primary care providers and other services in Orange County

30 may be considered.

31 2. CONTRACTOR shall maintain a facility that is as calm as possible to facilitate the

32 participant's adjustment from living in outside areas or on the street into a congregate and/or communal

33 living within a building.

34 B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the

35 Facility Paragraph of this Exhibit A to the Agreement.

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VII. PAYMENTS

A. Behavioral Health Recuperative Care Services – COUNTY shall pay CONTRACTOR at a rate of \$220 per bed day for services provided as specified in this agreement.

B. CONTRACTOR’s billings to COUNTY shall be on a form approved or provided by ADMINISTRATOR and provide such information as is required by ADMINISTRATOR.

C. Billings are due by the tenth (10th) working day of each month, and payment to CONTRACTOR should be released by COUNTY no later than twenty-one (21) calendar days after receipt of the correctly completed billing form.

D. CONTRACTOR agrees that all billings to COUNTY shall be supported, at CONTRACTOR’s facility, by a detailed patient listing. Source documentation including, but not limited to, ledgers, journals, timesheets, invoices, bank statements, canceled checks, receipts, receiving records, and records of service provided will be made available for COUNTY to review at their option.

E. CONTRACTOR agrees that ADMINISTRATOR may withhold or delay any payment due to CONTRACTOR, if CONTRACTOR fails to comply with any provision of the Agreement.

F. CONTRACTOR shall not claim reimbursement for any unauthorized services or services provided beyond the expiration and/or termination of the Agreement, except as otherwise provided under the Agreement.

G. Following the term of this Agreement and upon final settlement, if the average occupancy rate, as referenced in Subparagraph IV.G. of this Exhibit A to the Agreement, has been less than eighty percent (80%), ADMINSTRATOR shall reimburse CONTRACTOR for the difference between the total payments to CONTRACTOR and CONTRACTOR’s actual cost of providing services, as mutually agreed upon in writing by the Parties.

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

VIII. REPORTS

A. CONTRACTOR shall submit, on forms provided or approved by ADMINISTRATOR, monthly programmatic reports concerning CONTRACTOR’s activities as they relate to the Agreement.

B. CONTRACTOR shall submit, on forms provided or approved by ADMINISTRATOR, any additional information not already included in the quarterly programmatic reports, as requested by ADMINISTRATOR or DHCS, concerning CONTRACTOR’s activities as they relate to the Agreement. ADMINISTRATOR will be specific as to the nature of the information requested and allow thirty (30) calendar days for CONTRACTOR to respond, unless deadlines imposed by DHCS dictate otherwise.

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

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IX. STAFFING

A. CONTRACTOR shall ensure that it has appropriate levels of medical and behavioral health staff to provide the recuperative care services as required under this Agreement.

B. CONTRACTOR shall ensure that all staff are trained at a minimum to provide first aid, CPR, Mental Health First Aid (MHFA), and the ability to communicate to outside emergency assistance.

C. CONTRACTOR’s behavioral health staffing shall include a minimum of one (1), forty (40) hour a week Clinician who can be a licensed or pre-licensed Marriage and Family Therapist, Clinical Social Worker, Behavioral Health Counselor, or Registered Nurse.

1. If the staff is pre-licensed, CONTRACTOR must provide the appropriate amount of clinical supervision and training.

D. CONTRACTOR’s Clinician shall supervise the educational, coaching, and counseling sessions; as well as provide training to the staff on behavioral health issues.

E. CONTRACTOR’s Clinician shall also be available to provide direct services including: coaching/counseling sessions, de-escalation and crisis management, and educational groups.

F. COUNTY will provide staffing for behavioral health referral, screening, assessment, treatment and therapy at a level that meets the needs of the patient and facilitates a positive transitional outcome.

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1 EXHIBIT B
2 AGREEMENT FOR PROVISION OF
3 BEHAVIORAL HEALTH RECUPERATIVE CARE SERVICES
4 BETWEEN
5 COUNTY OF ORANGE
6 AND
7 HURTT FAMILY HEALTH CLINIC, INC.
8 JULY 1, 2019 THROUGH DECEMBER 31, 2020
9

10 **EXHC I. BUSINESS ASSOCIATE CONTRACT**

11 A. GENERAL PROVISIONS AND RECITALS

12 1. The Parties agree that the terms used, but not otherwise defined below in Paragraph B, shall
13 have the same meaning given to such terms under the Health Insurance Portability and Accountability
14 Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and
15 Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and their implementing regulations at 45
16 CFR Parts 160 and 164 (“the HIPAA regulations”) as they may exist now or be hereafter amended.

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

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

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

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

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

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

3 B. DEFINITIONS

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

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

10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

37 //

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. “Protected Health Information” or “PHI” shall have the meaning given to such term under
12 the HIPAA regulations in 45 CFR § 160.103.

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

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

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

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

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

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

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

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

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

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

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

5 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of
6 45 CFR Part 164 with respect to electronic PHI COUNTY discloses to CONTRACTOR or
7 CONTRACTOR 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 promptly any Use or Disclosure of PHI not
12 provided for by this Business Associate Contract of which CONTRACTOR becomes aware.
13 CONTRACTOR must report Breaches of Unsecured PHI in accordance with Paragraph E below and as
14 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 Designated Record Set, to COUNTY in order to meet the
20 requirements under 45 CFR § 164.524. If CONTRACTOR maintains an Electronic Health Record with
21 PHI, and an individual requests a copy of such information in an electronic format, CONTRACTOR
22 shall provide such information in an electronic format to COUNTY.

23 8. CONTRACTOR agrees to make any amendment(s) to PHI in a Designated Record Set that
24 COUNTY directs or agrees to pursuant to 45 CFR § 164.526 at the request of COUNTY 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 policies
28 and procedures, relating to the use and disclosure of PHI received from, or created or received by
29 CONTRACTOR on behalf of COUNTY, available to COUNTY and the Secretary in a time and manner
30 as reasonably determined by COUNTY or as designated by the Secretary for purposes of the Secretary
31 determining COUNTY's compliance with the HIPAA Privacy Rule.

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

37 //

1 11. CONTRACTOR agrees to provide COUNTY in a time and manner to be reasonably
2 determined by COUNTY, that information collected in accordance with the Agreement, in order to
3 permit COUNTY to respond to a request by an Individual for an accounting of Disclosures of PHI in
4 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 employees,
11 agents, subcontractors and agents of its subcontractors.

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

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

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

37 //

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

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

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

9 D. SECURITY RULE

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

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

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

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

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

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

34 4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or
35 transmit electronic PHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to
36 the same restrictions and requirements contained in this Paragraph D of this Business Associate
37 Contract.

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

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

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

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

34 2. Technical Security Controls

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

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

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

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

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

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

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

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

- 1) Upper case letters (A-Z)
 - 2) Lower case letters (a-z)
 - 3) Arabic numerals (0-9)
 - 4) Non-alphanumeric characters (punctuation symbols)
- 5 h. Data Destruction. When no longer needed, all PHI COUNTY discloses to
6 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
7 must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or
8 by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication
9 800-88. Other methods require prior written permission by COUNTY.
- 10 i. System Timeout. The system providing access to PHI COUNTY discloses to
11 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
12 must provide an automatic timeout, requiring re-authentication of the user session after no more than 20
13 minutes of inactivity.
- 14 j. Warning Banners. All systems providing access to PHI COUNTY discloses to
15 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
16 must display a warning banner stating that data is confidential, systems are logged, and system use is for
17 business purposes only by authorized users. User must be directed to log off the system if they do not
18 agree with these requirements.
- 19 k. System Logging. The system must maintain an automated audit trail which can
20 identify the user or system process which initiates a request for PHI COUNTY discloses to
21 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY,
22 or which alters such PHI. The audit trail must be date and time stamped, must log both successful and
23 failed accesses, must be read only, and must be restricted to authorized users. If such PHI is stored in a
24 database, database logging functionality must be enabled. Audit trail data must be archived for at least 3
25 years after occurrence.
- 26 l. Access Controls. The system providing access to PHI COUNTY discloses to
27 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
28 must use role based access controls for all user authentications, enforcing the principle of least privilege.
- 29 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to
30 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
31 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is
32 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files
33 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as
34 website access, file transfer, and E-Mail.
- 35 n. Intrusion Detection. All systems involved in accessing, holding, transporting, and
36 protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains,
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1 or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a
2 comprehensive intrusion detection and prevention solution.

3 3. Audit Controls

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

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

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

17 4. Business Continuity/Disaster Recovery Control (DRC)

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

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

30 5. Paper Document Controls

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

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

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

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

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

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

22 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

32 2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY
33 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written
34 notification within five (5) business days of the oral notification.

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

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

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

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

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

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

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

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

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

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

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

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

33 8. If the Breach is due to the negligence or willful misconduct of CONTRACTOR,
34 CONTRACTOR shall bear all expense associated with the Breach and shall reimburse COUNTY for all
35 reasonable expenses COUNTY incurs in addressing the Breach and consequences thereof, including
36 costs of investigation, notification, remediation, documentation, or other costs associated with
37 addressing the Breach.

1 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

9 1) The Disclosure is required by law; or

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

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

18 2. CONTRACTOR may use and disclose PHI COUNTY discloses to CONTRACTOR
19 consistent with the minimum necessary policies and procedures of COUNTY.

20 3. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as
21 required by law.

22 H. PROHIBITED USES AND DISCLOSURES

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

28 2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
29 COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on
30 behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by 42 USC §
31 17935(d)(2).

32 I. OBLIGATIONS OF COUNTY

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

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

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

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

9 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

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EXHIBIT C
AGREEMENT FOR PROVISION OF
BEHAVIORAL HEALTH RECUPERATIVE CARE SERVICES
BETWEEN
COUNTY OF ORANGE
AND
HURTT FAMILY HEALTH CLINIC, INC.
JULY 1, 2019 THROUGH DECEMBER 31, 2020

EXHD I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

3. "CMPPA Agreement" means the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS).

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

5. "IEA" shall mean the Information Exchange Agreement currently in effect between the Social Security Administration (SSA) and DHCS.

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

7. "Personally Identifiable Information" (PII) shall have the meaning given to such term in the IEA and CMPPA.

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

1 9. "Required by law" means a mandate contained in law that compels an entity to make a use
2 or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court
3 orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental
4 or tribal inspector general, or an administrative body authorized to require the production of
5 information, and a civil or an authorized investigative demand. It also includes Medicare conditions of
6 participation with respect to health care providers participating in the program, and statutes or
7 regulations that require the production of information, including statutes or regulations that require such
8 information if payment is sought under a government program providing public benefits.

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

12 B. TERMS OF AGREEMENT

13 1. Permitted Uses and Disclosures of DHCS PI and PII by CONTRACTOR. Except as
14 otherwise indicated in this Exhibit, CONTRACTOR may use or disclose DHCS PI only to perform
15 functions, activities, or services for or on behalf of the COUNTY pursuant to the terms of the
16 Agreement provided that such use or disclosure would not violate the California Information Practices
17 Act (CIPA) if done by the COUNTY.

18 2. Responsibilities of CONTRACTOR

19 CONTRACTOR agrees:

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

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

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

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

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

5 3) If the data obtained by CONTRACTOR from COUNTY includes PII,
6 CONTRACTOR shall also comply with the substantive privacy and security requirements in the
7 Computer Matching and Privacy Protection Act Agreement between the SSA and the California Health
8 and Human Services Agency (CHHS) and in the Agreement between the SSA and DHCS, known as the
9 Information Exchange Agreement (IEA). The specific sections of the IEA with substantive privacy and
10 security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA,
11 Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State
12 and Local Agencies Exchanging Electronic Information with the SSA. CONTRACTOR also agrees to
13 ensure that any of CONTRACTOR's agents or subcontractors, to whom CONTRACTOR provides
14 DHCS PII agree to the same requirements for privacy and security safeguards for confidential data that
15 apply to CONTRACTOR with respect to such information.

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

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

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

29 g. Cooperation with COUNTY. With respect to DHCS PI, to cooperate with and assist the
30 COUNTY to the extent necessary to ensure the DHCS's compliance with the applicable terms of the
31 CIPA including, but not limited to, accounting of disclosures of DHCS PI, correction of errors in DHCS
32 PI, production of DHCS PI, disclosure of a security breach involving DHCS PI and notice of such
33 breach to the affected individual(s).

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1 h. Breaches and Security Incidents. During the term of the Agreement, CONTRACTOR
2 agrees to implement reasonable systems for the discovery of any breach of unsecured DHCS PI and PII
3 or security incident. CONTRACTOR agrees to give notification of any beach of unsecured DHCS PI
4 and PII or security incident in accordance with Paragraph F, of the Business Associate Contract, Exhibit
5 B to the Agreement.

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

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