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REFERENCED CONTRACT PROVISIONS

~~Term: May 1, 2019 through June 30, 2022~~

~~Period One means the period from May 1, 2019 through June 30, 2019~~

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

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

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

Term: July 1, 2018 through June 30, 2023

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

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

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

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

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

~~Maximum Obligation:~~

~~Period One Maximum Obligation: \$ 380,718~~

~~Period Two Maximum Obligation: 277,878~~

~~Period Three Maximum Obligation: 277,878~~

~~Period Four Maximum Obligation: 277,878~~

~~TOTAL MAXIMUM OBLIGATION: \$ 1,214,352~~

Maximum Obligation:

Period One Maximum Obligation: \$ 380,718

Period Two Maximum Obligation: 277,878

Period Three Maximum Obligation: 277,878

Period Four Maximum Obligation: 277,878

Period Five Maximum Obligation: 320,102

TOTAL MAXIMUM OBLIGATION: \$ 1,534,454

Basis for Reimbursement: Actual Cost

Payment Method: Monthly in Arrears

CONTRACTOR DUNS Number: 88-381-5375

CONTRACTOR TAX ID Number: 33-0219404

Notices to COUNTY and CONTRACTOR:

1 COUNTY: County of Orange
 2 Health Care Agency
 3 Contract Services
 4 405 West 5th Street, Suite 600
 5 Santa Ana, CA 92701-4637
 6

7 CONTRACTOR: Friendship Shelter, Inc.
 8 PO Box 4252
 9 Laguna Beach, CA 92652
 10 Attention: Dawn Price, Executive Director
 11 E-mail: dprice@friendshipshelter.org
 12 //
 13 //
 14 //

15 I. ACRONYMS

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

| | | |
|----|-----------|---|
| 18 | A. ARRA | American Recovery and Reinvestment Act |
| 19 | B. AES | Advanced Encryption Standard |
| 20 | C. BCP | Business Continuity Plan |
| 21 | D. CCC | California Civil Code |
| 22 | E. CCR | California Code of Regulations |
| 23 | F. CD/DVD | Compact Disc/Digital Video or Versatile Disc |
| 24 | G. CEO | County Executive Office |
| 25 | H. CFR | Code of Federal Regulations |
| 26 | I. CIPA | California Information Practices Act |
| 27 | J. CHPP | COUNTY HIPAA Policies and Procedures |
| 28 | K. CMPPA | Computer Matching and Privacy Protection Act |
| 29 | L. COI | Certificate of Insurance |
| 30 | M. DHCS | Department of Health Care Services |
| 31 | N. DoD | US Department of Defense |
| 32 | O. DRP | Disaster Recovery Plan |
| 33 | P. DRS | Designated Record Set |
| 34 | Q. DSM | Diagnostic and Statistical Manual of Mental Disorders |
| 35 | R. FTE | Full Time Equivalent |
| 36 | S. E-Mail | Electronic Mail |
| 37 | T. EHR | Electronic Health Records |

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| | | |
|----|----------------|---|
| 1 | U. ePHI | Electronic Protected Health Information |
| 2 | V. FIPS | Federal Information Processing Standards |
| 3 | W. GAAP | Generally Accepted Accounting Principles |
| 4 | X. HCA | Health Care Agency |
| 5 | Y. HHS | Health and Human Services |
| 6 | Z. HIPAA | Health Insurance Portability and Accountability Act of 1996, Public |
| 7 | | Law 104-191 |
| 8 | AA. HITECH Act | The Health Information Technology for Economic and Clinical Health |
| 9 | | Act, Public Law 111-005 |
| 10 | AB. HSC | California Health and Safety Code |
| 11 | AC. ID | Identification |
| 12 | AD. IEA | Information Exchange Agreement |
| 13 | AE. IRIS | Integrated Records and Information System |
| 14 | AF. ISO | Insurance Services Office |
| 15 | AG. MHP | Mental Health Plan |
| 16 | AH. NIST | National Institute of Standards and Technology |
| 17 | AI. NPI | National Provider Identifier |
| 18 | AJ. NPP | Notice of Privacy Practices |
| 19 | AK. OMB | Office of Management and Budget |
| 20 | AL. OPM | Federal Office of Personnel Management |
| 21 | AM. PHI | Protected Health Information |
| 22 | AN. PI | Personal Information |
| 23 | AO. PII | Personally Identifiable Information |
| 24 | AP. P&P | Policy and Procedure |
| 25 | AQ. PRA | Public Record Act |
| 26 | AR. SIR | Self-Insured Retention |
| 27 | AS. USC | United States Code |

II. ALTERATION OF TERMS

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

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

III. ASSIGNMENT OF DEBTS

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

IV. COMPLIANCE

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

//

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

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

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

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

4. If CONTRACTOR elects to have its own Compliance Program, Code of Conduct and any

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

12 5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the
 13 CONTRACTOR's compliance program, code of conduct and any Compliance related policies and
 14 procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals
 15 relative to this Agreement are made aware of CONTRACTOR's compliance program, code of conduct,
 16 related policies and procedures and contact information for the ADMINISTRATOR's Compliance
 17 Program.

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

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

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

37 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in

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1 federal and state health care programs; or

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

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

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

14 //

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

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

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

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

35 1. CONTRACTORS that have acknowledged to comply with ADMINISTRATOR's
36 Compliance Program shall use its best efforts to encourage completion by all Covered Individuals;
37 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated

1 representative to complete the General Compliance Training when offered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 4. CONTRACTOR shall act promptly to investigate and correct any problems or errors in

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1 coding of claims and billing, if and when, any such problems or errors are identified.

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

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

10 **V. CONFIDENTIALITY**

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

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

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

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

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

33 **VI. COST REPORT**

34 ~~A. CONTRACTOR shall submit separate individual and/or consolidated Cost Reports for Period~~

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

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

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

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

b. ADMINISTRATOR may withhold or delay any or all payments due CONTRACTOR pursuant to any or all agreements between COUNTY and CONTRACTOR until such time that the

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1 accurate and complete individual and/or consolidated Cost Report is delivered to ADMINISTRATOR.

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

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

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

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

27 //

28 D. Unless approved by ADMINISTRATOR, costs that exceed the Statewide Maximum Allowance
29 (SMA) rates per Medi-Cal Unit of Services, as determined by the DHCS, shall be unreimbursable to
30 CONTRACTOR.

31 E. In the event that CONTRACTOR is authorized to retain unanticipated revenues as described in
32 the Budget Paragraph of Exhibit A to this Agreement, CONTRACTOR shall specify in the individual
33 and/or consolidated Cost Report the services rendered with such revenues.

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

36 "I HEREBY CERTIFY that I have executed the accompanying Cost Report and
37

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

8
9 Signed _____
10 Name _____
11 Title _____
12 Date _____"

13
14 **VII. DEBARMENT**

15 A. CONTRACTOR certifies that it and its principals:

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

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

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

27 //

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

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

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

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

4 **VIII. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

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

24 3. If CONTRACTOR is a governmental organization, any change to another structure,
25 including a change in more than fifty percent (50%) of the composition of its governing body (i.e. Board
26 of Supervisors, City Council, School Board) within a two (2) month period of time, shall be deemed an
27 //
28 assignment for purposes of this Paragraph. Any attempted assignment or delegation in derogation of
29 this Subparagraph shall be void.

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

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

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

5 1. After approval of a subcontract, ADMINISTRATOR may revoke the approval of a
 6 subcontract upon five (5) calendar day's written notice to CONTRACTOR if the subcontract
 7 subsequently fails to meet the requirements of this Agreement or any provisions that
 8 ADMINISTRATOR has required.

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

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

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

16 **IX. EMPLOYEE ELIGIBILITY VERIFICATION**

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

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

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1 depreciated according to GAAP.

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

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

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

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

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

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

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

31 **XI. FACILITIES, PAYMENTS AND SERVICES**

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

37 B. In the event that CONTRACTOR is unable to provide the services, staffing, facilities, or

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

7 **XII. INDEMNIFICATION AND INSURANCE**

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

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

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

34 D. All SIRs and deductibles shall be clearly stated on the COI. Any SIR or deductible in an
 35 amount in excess of \$50,000 shall specifically be approved by the CEO/Office of Risk Management
 36 upon review of CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is
 37 approved, CONTRACTOR, in addition to, and without limitation of, any other indemnity provision(s)

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1 in this Agreement, agrees to all of the following:

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

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

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

11 E. If CONTRACTOR fails to maintain insurance as required in this Paragraph XII
12 (INDEMNIFICATION AND INSURANCE) for the full term of this Agreement, such failure shall
13 constitute a breach of CONTRACTOR's obligation hereunder and grounds for COUNTY to terminate
14 this Agreement.

15 F. QUALIFIED INSURER

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

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

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

| <u>Coverage</u> | <u>Minimum Limits</u> |
|--|----------------------------|
| Commercial General Liability | \$1,000,000 per occurrence |
| | \$2,000,000 aggregate |
| Automobile Liability including coverage for owned, non-owned and hired vehicles | \$1,000,000 per occurrence |

| | | |
|----|----------------------------------|-----------------------------|
| 1 | Workers' Compensation | Statutory |
| 2 | | |
| 3 | Employers' Liability Insurance | \$1,000,000 per occurrence |
| 4 | | |
| 5 | Network Security & Privacy | \$1,000,000 per claims made |
| 6 | Liability | |
| 7 | | |
| 8 | Professional Liability Insurance | \$1,000,000 per claims made |
| 9 | | \$1,000,000 aggregate |
| 10 | | |
| 11 | Sexual Misconduct Liability | \$1,000,000 per occurrence |
| 12 | | |

13 H. REQUIRED COVERAGE FORMS

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

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

18 I. REQUIRED ENDORSEMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 R. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

11 4. In no cases shall assurances by CONTRACTOR, its employees, agents, including any
 12 insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COIs
 13 and endorsements, or in the interim, an insurance binder as adequate evidence of insurance coverage.
 14

15 **XIII. INSPECTIONS AND AUDITS**

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

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

30 C. AUDIT RESPONSE

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

36 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement
 37 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said

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1 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of
 2 the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement
 3 is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies
 4 provided by law, reduce any amount owed CONTRACTOR by an amount not to exceed the
 5 reimbursement due COUNTY.

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

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

15 16 **XIV. LICENSES AND LAWS**

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

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

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

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

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

36 b. In the case of a CONTRACTOR doing business in a form other than as an individual,
 37 the name, date of birth, social security number, and residence address of each individual who owns an

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1 interest of ten percent (10%) or more in the contracting entity; and

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

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

- 8 1. ARRA of 2009.
- 9 2. CCC §§56 through 56.37, Confidentiality of Medical Information.
- 10 3. CCC §§1798.80 through 1798.84, Customer Records.
- 11 4. CCC §1798.85, Confidentiality of Social Security Numbers.
- 12 5. CCR, Title 9, Rehabilitative and Developmental Services, Division 4; and Title 22 Social
13 Security.
- 14 6. HSC, Divisions 10.5 Alcohol and Drug Programs and 10.6. Drug and Alcohol Abuse
15 Master Plans.
- 16 7. HSC, §§11839 through 11839.22, Narcotic Treatment Programs.
- 17 8. HSC, §11876, Narcotic Treatment Programs.
- 18 9. HSC, §§123110 through 123149.5, Patient Access to Health Records.
- 19 10. Code of Federal Regulations, Title 42, Public Health.
- 20 11. 2 CFR 230, Cost Principles for Nonprofit Organizations.
- 21 12. 2 CFR 376, Nonprocurement, Debarment and Suspension.
- 22 13. 41 CFR 50, Public Contracts and Property Management.
- 23 14. 42 CFR 2, Confidentiality of Alcohol and Drug Abuse Patient Records.
- 24 15. 42 CFR 54, Charitable choice regulations applicable to states receiving substance abuse
25 prevention and treatment block grants and/or projects for assistance in transition from
26 homelessness grants.
- 27 16. 45 CFR 93, New Restrictions on Lobbying.
- 28 17. 45 CFR 96.127, Requirements regarding Tuberculosis.
- 29 18. 45 CFR 96.132, Additional Agreements.
- 30 19. 45 CFR 96.135, Restrictions on Expenditure of Grant.
- 31 20. 45 CFR 160, General Administrative Requirements.
- 32 21. 45 CFR 162, Administrative Requirements.
- 33 22. 45 CFR 164, Security and Privacy.
- 34 23. 48 CFR 9.4, Debarment, Suspension, and Ineligibility.
- 35 24. 8 USC §1324 et seq., Immigration Reform and Control Act of 1986.
- 36 25. 31 USC §1352, Limitation on Use of Appropriated Funds to Influence Certain Federal
37 Contracting and Financial Transactions.

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- 1 26. 42 USC §§285n through 285o, National Institute on Alcohol Abuse and Alcoholism;
2 National Institute on Drug Abuse.
- 3 27. 42 USC §§290aa through 290kk-3, Substance Abuse and Mental Health Services
4 Administration.
- 5 28. 42 USC §290dd-2, Confidentiality of Records.
- 6 29. 42 USC §1320(a), Uniform reporting systems for health services facilities and
7 organizations.
- 8 30. 42 USC §§1320d through 1320d-9, Administrative Simplification.
- 9 31. 42 USC §12101 et seq., The Americans with Disabilities Act of 1990 as amended.
- 10 32. 42 USC §6101 et seq., Age Discrimination Act of 1975.
- 11 33. 42 USC §2000d, Civil Rights Act of 1964.
- 12 34. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200,
13 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for
14 Federal Awards.
- 15 35. U.S. Department of Health and Human Services, National Institutes of Health (NIH),
16 Grants Policy Statement (10/13).
- 17 36. Fact Sheet Early and Periodic Screening, Diagnosis and Treatment (EPSDT) for Co-
18 Occurring Disorders, Mental Health Services Oversight and Accountability Commission,
19 1/17/08.
- 20 37. State of California, Department of Alcohol and Drug Programs Audit Assistance Guide
21 Manual.
- 22 38. State of California, Department of Alcohol and Drug Programs, Alcohol and/or Other Drug
23 Program Certification Standards, March 2004.

24 **XV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

25
26 A. Any written information or literature, including educational or promotional materials,
27 distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related
28 to this Agreement must be approved at least thirty (30) days in advance and in writing by
29 ADMINISTRATOR before distribution. For the purposes of this Agreement, distribution of written
30 materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads,
31 and electronic media such as the Internet.

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

35 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly
36 available social media sites) in support of the services described within this Agreement,
37 CONTRACTOR shall develop social media Policy & Procedures and have them available to

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ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media used to either directly or indirectly support the services described within this Agreement. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social media developed in support of the services described within this Agreement. CONTRACTOR shall also include any required funding statement information on social media when required by ADMINISTRATOR.

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

XVI. MAXIMUM OBLIGATION

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

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

XVII. MINIMUM WAGE LAWS

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

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

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

XVIII. NONDISCRIMINATION

A. EMPLOYMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 seq., as they exist now or may be hereafter amended together with succeeding legislation.

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

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

11 **XIX. NOTICES**

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

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

17 2. When faxed, transmission confirmed;

18 3. When sent by Email; or

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

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

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

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

31 **XX. NOTIFICATION OF DEATH**

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

34 B. All Notifications of Death provided to ADMINISTRATOR by CONTRACTOR shall contain
35 the name of the deceased, the date and time of death, the nature and circumstances of the death, and the
36

37 29 of 36

1 name(s) of CONTRACTOR's officers or employees with knowledge of the incident.

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

7 2. WRITTEN NOTIFICATION

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

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

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

19
20 **XXI. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

28 **XXII. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

37 C. CONTRACTOR's participant, client, and/or patient records shall be maintained in a secure

30 of 36

1 manner. CONTRACTOR shall maintain participant, client, and/or patient records and must establish
2 and implement written record management procedures.

3 D. CONTRACTOR shall ensure appropriate financial records related to cost reporting,
4 expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately.

5 E. CONTRACTOR shall ensure all appropriate state and federal standards of documentation,
6 preparation, and confidentiality of records related to participant, client and/or patient records are met at
7 all times.

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

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

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

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

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

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

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

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

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

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

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

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1 longer.

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

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

7 M. If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR
8 may provide written approval to CONTRACTOR to maintain records in a single location, identified by
9 CONTRACTOR.

10 N. CONTRACTOR may be required to retain all records involving litigation proceedings and
11 settlement of claims for a longer term which will be directed by the ADMINISTRATOR.

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

15
16 **XXIII. RESEARCH AND PUBLICATION**

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

19
20 **XXIV. SEVERABILITY**

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

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27 //

28 **XXV. SPECIAL PROVISIONS**

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

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

1 5. Reimbursement of CONTRACTOR's members of the Board of Directors for expenses or
2 services.

3 6. Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants,
4 subcontractors, and members of the Board of Directors or its designee or authorized agent, or making
5 salary advances or giving bonuses to CONTRACTOR's staff.

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

9 8. Severance pay for separating employees.

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

12 10. Supplanting current funding for existing services.

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

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

16 2. Making phone calls outside of the local area unless documented to be directly for the
17 purpose of client care.

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

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

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

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

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

26 8. Purchase of gifts, meals, entertainment, awards, or other personal expenses for
27 CONTRACTOR's clients.

28 **XXVI. STATUS OF CONTRACTOR**

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

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

4 **XXVII. TERM**

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

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

14 **XXVIII. TERMINATION**

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

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

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

- 23 1. The loss by CONTRACTOR of legal capacity.
- 24 2. Cessation of services.
- 25 3. The delegation or assignment of CONTRACTOR's services, operation or administration to
26 another entity without the prior written consent of COUNTY.

27 //

- 28 4. The neglect by any physician or licensed person employed by CONTRACTOR of any duty
29 required pursuant to this Agreement.

- 30 5. The loss of accreditation or any license required by the Licenses and Laws Paragraph of
31 this Agreement.

- 32 6. The continued incapacity of any physician or licensed person to perform duties required
33 pursuant to this Agreement.

- 34 7. Unethical conduct or malpractice by any physician or licensed person providing services
35 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR
36 removes such physician or licensed person from serving persons treated or assisted pursuant to this
37 Agreement.

1 D. CONTINGENT FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **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
4 FRIENDSHIP SHELTER, INC.

5
6
7 BY: _____ DATED: _____

8
9
10 TITLE: _____

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14
15 COUNTY OF ORANGE

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18 BY: _____ DATED: _____

19 HEALTH CARE AGENCY

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

25
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29 BY: _____ DATED: _____

30 DEPUTY

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35 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or
36 any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer.

If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution or by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her signature alone is required by ADMINISTRATOR.

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EXHIBIT A
 AGREEMENT FOR PROVISION OF
 HOMELESS BRIDGE HOUSING SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 FRIENDSHIP SHELTER, INC.
 JULY 1, 2018 THROUGH JUNE 30, 2021

I. COMMON TERMS AND DEFINITIONS

A. The following standard definitions are for reference purposes only and may or may not apply in their entirety throughout the Agreement. The parties agree to the following terms and definitions, and to those terms and definitions which, for convenience, are set forth elsewhere in the Agreement.

1. Admission means documentation, by CONTRACTOR, of completion of the entry and evaluation documents into IRIS.

2. Data Collection System means software designed for collection, tracking and reporting outcomes data for Resident enrolled in the FSP Programs.

a. 3 M's means the Quarterly Assessment Form that is completed for each Resident every three months in the approved data collection system.

b. Data Mining and Analysis Specialist means a person who is responsible for ensuring the program maintains a focus on outcomes, by reviewing outcomes, and analyzing data as well as working on strategies for gathering new data from the Resident' perspective which will improve understanding of Resident' needs and desires towards furthering their recovery. This individual will provide feedback to the program and work collaboratively with the employment specialist, education specialist, benefits specialist, and other staff in the program in strategizing improved outcomes in these areas. This position will be responsible for attending all data and outcome related meetings and ensuring that program is being proactive in all data collection requirements and changes at the local and state level.

c. Data Certification means the process of reviewing State and COUNTY mandated outcome data for accuracy and signing the Certification of Accuracy of Data form indicating that the data is accurate.

3. Care Coordinator is a MHS, CSW, or MFT that provides mental health, crisis intervention and case management services to those Residents who seek services in the COUNTY operated outpatient programs.

4. Case Management Linkage Brokerage means a process of identification, assessment of need, planning, coordination and linking, monitoring and continuous evaluation of Residents and of available resources and advocacy through a process of casework activities in order to achieve the best

1 possible resolution to individual needs in the most effective way possible. This includes supportive
 2 assistance to the Resident in the assessment, determination of need and securing of adequate and
 3 appropriate living arrangements.

4 5. Client or Resident means an individual, referred by COUNTY or enrolled in
 5 CONTRACTOR's program for services under the Agreement, who experiences chronic mental illness.

6 6. CSW means an individual who meets the minimum professional and licensure requirements
 7 set forth in CCR, Title 9, Section 625, and has two (2) years of post-master's clinical experience in a
 8 mental health setting.

9 7. Diagnosis means the definition of the nature of the Resident's disorder. When formulating
 10 the diagnosis of Resident, CONTRACTOR shall use the diagnostic codes and axes as specified in the
 11 most current edition of the DSM published by the American Psychiatric Association (APA). DSM
 12 diagnoses will be recorded on all IRIS documents, as appropriate.

13 8. FSPs

14 a. A FSP means a type of program described by the State in the requirements for the
 15 COUNTY plan for use of MHSA funds and which includes Residents being a full partner in the
 16 development and implementation of their treatment plan. A FSP is an evidence-based and strength-
 17 based model, with the focus on the individual rather than the disease. Multi-disciplinary teams will be
 18 established including the Resident, Psychiatrist, and PSC. Whenever possible, these multi-disciplinary
 19 teams will include a mental health nurse, marriage and family therapist, clinical social worker, peer
 20 specialist, and family members. The ideal Resident to staff ratio will be in the range of fifteen to twenty
 21 (15-20) to one (1), ensuring relationship building and intense service delivery. Services will include, but
 22 not be limited to, the following:

- 23 1) Crisis Management;
- 24 2) Housing Services;
- 25 3) Twenty-four (24) hours per day, seven (7) days per week intensive case
 26 management;
- 27 4) Community-based Wraparound Recovery Services;
- 28 5) Vocational and Educational Services;
- 29 6) Job Coaching/Developing;
- 30 7) Resident Employment;
- 31 8) Money Management/Representative Payee Support;
- 32 9) Flexible Fund account for immediate needs;
- 33 10) Transportation;
- 34 11) Illness Education and Self-management;
- 35 12) Medication Support;
- 36 13) Co-occurring Services;
- 37 14) Linkage to Financial Benefits/Entitlements;

1 15) Family and Peer Support; and

2 16) Supportive Socialization and meaningful community roles.

3 b. Resident services are focused on recovery and harm reduction to encourage the highest
4 level of Resident empowerment and independence achievable. PSC's will meet with the Resident in
5 their current community setting and will develop a supportive relationship with the individual served.
6 Substance abuse treatment will be integrated into services and provided by the Resident's team to
7 individuals with a co-occurring disorder.

8 c. The FSP shall offer "whatever it takes" to engage seriously mentally ill adults,
9 including those who are dually diagnosed, in a partnership to achieve the individual's wellness and
10 recovery goals. Services shall be non-coercive and focused on engaging people in the field. The goal of
11 FSP Programs is to assist the Resident's progress through pre-determined quality of life outcome
12 domains (housing, decreased jail, decreased hospitalization, increased education involvement, increased
13 employment opportunities and retention, linkage to medical providers, etc.) and become more
14 independent and self-sufficient as Residents move through the continuum of recovery and evidence by
15 progressing to lower level of care or out of the "intensive case management need" category.

16 9. Intern means an individual enrolled in an accredited graduate program accumulating
17 clinically supervised work experience hours as part of field work, internship, or practicum requirements.
18 Acceptable graduate programs include all programs that assist the student in meeting the educational
19 requirements in becoming a MFT, a Licensed CSW, or a licensed Clinical Psychologist.

20 10. MFT means an individual who meets the minimum professional and licensure requirements
21 set forth in CCR, Title 9, Section 625.

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

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

28 b. Collateral means a significant support person in a beneficiary's life and is used to
29 define services provided to them with the intent of improving or maintaining the mental health status of
30 the Resident. The beneficiary may or may not be present for this service activity.

31 c. Co-Occurring Integrated Treatment Model. In evidence-based Integrated Treatment
32 programs, Residents receive combined treatment for mental illnesses and substance use disorders from
33 the same practitioner or treatment team.

34 d. Crisis Intervention means a service, lasting less than twenty-four (24) hours, to or on
35 behalf of a Resident for a condition which requires more timely response than a regularly scheduled
36 visit. Service activities may include, but are not limited to, assessment, collateral and therapy.

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

8 f. Rehabilitation Service means an activity which includes assistance in improving,
 9 maintaining, or restoring a Resident's or group of Residents' functional skills, daily living skills, social
 10 and leisure skill, grooming and personal hygiene skills, meal preparation skills, support resources and/or
 11 medication education.

12 g. Targeted Case Management means services that assist a beneficiary to access needed
 13 medical, educational, social, prevocational, vocational, rehabilitative, or other community services. The
 14 service activities may include, but are not limited to, communication, coordination and referral;
 15 monitoring service delivery to ensure beneficiary access to service and the service delivery system;
 16 monitoring of the beneficiary's progress; and plan development.

17 h. Therapy means a service activity which is a therapeutic intervention that focuses
 18 primarily on symptom reduction as a means to improve functional impairments. Therapy may be
 19 delivered to an individual or group of beneficiaries which may include family therapy in which the
 20 beneficiary is present.

21 12. MHSA means the law that provides funding for expanded community Mental Health
 22 Services. It is also known as "Proposition 63."

23 13. PSC means an individual who will be part of a multi-disciplinary team that will provide
 24 community based Mental Health Services to adults that are struggling with persistent and severe mental
 25 illness as well as homelessness, rehabilitation and recovery principles. The PSC is responsible for
 26 clinical care and case management of assigned Resident and families in a community, home, or program
 27 setting. This includes assisting Residents with mental health, housing, vocational and educational
 28 needs. The position is also responsible for administrative and clinical documentation as well as
 29 participating in trainings and team meetings. The PSC shall be active in supporting and implementing
 30 the program's philosophy and its individualized, strength-based, culturally/linguistically competent and
 31 Resident-centered approach.

32 14. Pre-Licensed Psychologist means an individual who has obtained a Ph.D. or Psy.D. in
 33 Clinical Psychology and is registered with the Board of Psychology as a registered Psychology Intern or
 34 Psychological Assistant, acquiring hours for licensing and waived in accordance with WIC Section
 35 575.2. The waiver may not exceed five (5) years.

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

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

17. Referral means providing the effective linkage of a Resident to another service, when indicated; with follow-up to be provided within five (5) working days to assure that the Resident has made contact with the referred service.

18. Bed Day means one (1) calendar day which CONTRACTOR provides residential treatment services as described in Exhibit A of the Agreement. A Bed Day will include the day of admission; but not the day of discharge. If admission and discharge occur on the same day, one (1) Bed Day will be charged.

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

II. BUDGET

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

| | <u>PERI</u> | <u>PERI</u> | <u>PERI</u> | <u>PERI</u> | |
|----------------|---------------|---------------|---------------|---------------|----------------|
| | <u>OD</u> | <u>OD</u> | <u>OD</u> | <u>OD</u> | |
| | <u>ONE</u> | <u>TWO</u> | <u>THR</u> | <u>FOU</u> | <u>TOTAL</u> |
| | | | <u>EE</u> | <u>R</u> | |
| PROGRA | | | | | |
| M COSTS | | | | | |
| | | | | \$ | |
| | \$139, | \$139, | \$139, | 147,7 | \$565,4 |
| Salaries | 240 | 240 | 240 | 39 | 59 |
| | 31,70 | 31,70 | 31,70 | 33,75 | 128,87 |
| Benefits | 4 | 4 | 4 | 8 | 0 |
| Services | | | | | |
| & | 106,9 | 106,9 | 106,9 | 96,38 | 417,18 |
| Supplies | 34 | 34 | 34 | 1 | 3 |
| Subcontra | | | | | |
| ctors | 0 | 0 | 0 | 0 | 0 |
| Start-up | 102,8 | | | | 102,84 |
| Costs | 40 | 0 | 0 | 0 | 0 |
| SUBTOT | \$380, | \$277, | \$277, | \$277, | \$1,214 |

| | | | | | | |
|----|---------|---------------|---------------|---------------|---------------|----------------|
| 1 | AL | 718 | 878 | 878 | 878 | ,352 |
| 2 | PROGRA | | | | | |
| 3 | M-COSTS | | | | | |
| 4 | | | | | | |
| 5 | TOTAL | | | | | |
| 6 | GROSS | \$380, | \$277, | \$277, | \$277, | \$1,214 |
| 7 | COSTS | 718 | 878 | 878 | 878 | ,352 |
| 8 | | | | | | |
| 9 | REVENU | | | | | |
| 10 | E | | | | | |
| 11 | | <u>\$380,</u> | <u>\$277,</u> | <u>\$277,</u> | <u>\$277,</u> | <u>\$1,214</u> |
| 12 | MHSA | <u>718</u> | <u>878</u> | <u>878</u> | <u>878</u> | <u>,352</u> |
| 13 | TOTAL | | | | | |
| 14 | REVENU | \$380, | \$277, | \$277, | \$277, | \$1,214 |
| 15 | E | 718 | 878 | 878 | 878 | ,352 |
| 16 | TOTAL | | | | | |
| 17 | MAXIMU | | | | | |
| 18 | M | | | | | |
| 19 | OBLIGA | \$380, | \$277, | \$277, | \$277, | \$1,214 |
| 20 | TION | 718 | 878 | 878 | 878 | ,352 |

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

| | <u>PERIOD</u> | <u>PERIOD</u> | <u>PERIOD</u> | <u>PERIOD</u> | <u>PERIOD</u> | <u>TOTAL</u> | |
|----|-----------------|---------------|---------------|---------------|---------------|--------------|-------------|
| | <u>ONE</u> | <u>TWO</u> | <u>THREE</u> | <u>FOUR</u> | <u>FIVE</u> | | |
| 27 | <u>PROGRAM</u> | | | | | | |
| 28 | <u>COSTS</u> | | | | | | |
| 29 | Salaries | \$139,240 | \$139,240 | \$139,240 | \$147,739 | \$194,762 | \$760,221 |
| 30 | Benefits | 31,704 | 31,704 | 31,704 | 33,758 | 16,735 | 145,605 |
| 31 | Services & | | | | | | |
| 32 | Supplies | 106,934 | 106,934 | 106,934 | 96,381 | 108,605 | 525,788 |
| 33 | Subcontractors | 0 | 0 | 0 | 0 | 0 | 0 |
| 34 | Start-up Costs | 102,840 | 0 | 0 | 0 | 0 | 102,840 |
| 35 | <u>SUBTOTAL</u> | | | | | | |
| 36 | <u>PROGRAM</u> | | | | | | |
| 37 | COSTS | \$380,718 | \$277,878 | \$277,878 | \$277,878 | \$320,102 | \$1,534,454 |

| | | | | | | | |
|----|-------------------|------------------|------------------|------------------|------------------|------------------|--------------------|
| 1 | | | | | | | |
| 2 | <u>TOTAL</u> | | | | | | |
| 3 | <u>GROSS</u> | | | | | | |
| 4 | <u>COSTS</u> | <u>\$380,718</u> | <u>\$277,878</u> | <u>\$277,878</u> | <u>\$277,878</u> | <u>\$320,102</u> | <u>\$1,534,454</u> |
| 5 | | | | | | | |
| 6 | <u>REVENUE</u> | | | | | | |
| 7 | <u>MHSA</u> | <u>\$380,718</u> | <u>\$277,878</u> | <u>\$277,878</u> | <u>\$277,878</u> | <u>\$320,102</u> | <u>\$1,534,454</u> |
| 8 | <u>TOTAL</u> | | | | | | |
| 9 | <u>REVENUE</u> | <u>\$380,718</u> | <u>\$277,878</u> | <u>\$277,878</u> | <u>\$277,878</u> | <u>\$320,102</u> | <u>\$1,534,454</u> |
| 10 | <u>TOTAL</u> | | | | | | |
| 11 | <u>MAXIMUM</u> | | | | | | |
| 12 | <u>OBLIGATION</u> | <u>\$380,718</u> | <u>\$277,878</u> | <u>\$277,878</u> | <u>\$277,878</u> | <u>\$320,102</u> | <u>\$1,534,454</u> |
| 13 | | | | | | | |

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

25 C. FINANCIAL RECORDS – CONTRACTOR shall prepare and maintain accurate and complete
 26 financial records of its cost and operating expenses. Such records will reflect the actual cost of the type
 27 of service for which payment is claimed. Any apportionment of or distribution of costs, including
 28 indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and will
 29 be made in accordance with GAAP, and Medicare regulations. The Consumer eligibility determination
 30 and fee charged to and collected from Consumers, together with a record of all billings rendered and
 31 revenues received from any source, on behalf of Consumers treated pursuant to the Agreement, must be
 32 reflected in CONTRACTOR’s financial records.

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

35
 36 **III. PAYMENTS**

37 ~~A. COUNTY shall pay CONTRACTOR monthly, in arrears, at the provisional amount of \$31,727~~

~~per month for Period One, and \$23,157 per month for Period Two and Period Three. All payments are interim payments only, and subject to Final Settlement in accordance with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for the actual cost of providing the services hereunder; provided, however, the total of such payments do not exceed the Maximum Obligation as specified in the Referenced Contract Provisions of the Agreement, and provided further, CONTRACTOR's costs are reimbursable pursuant to COUNTY, state, and federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices for any month for which the provisional amount specified above has not been fully paid.~~

A. COUNTY shall pay CONTRACTOR monthly, in arrears, at the provisional amount of \$31,727 per month for Period One, \$23,157 per month for Period Two, Period Three, Period Four and \$ 26,675 per month for Period Five. All payments are interim payments only, and subject to Final Settlement in accordance with the Cost Report Paragraph of the Agreement for which CONTRACTOR shall be reimbursed for the actual cost of providing the services hereunder; provided, however, the total of such payments do not exceed the Maximum Obligation as specified in the Referenced Contract Provisions of the Agreement, and provided further, CONTRACTOR's costs are reimbursable pursuant to COUNTY, state, and federal regulations. ADMINISTRATOR may, at its discretion, pay supplemental invoices for any month for which the provisional amount specified above has not been fully paid.

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

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

//

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

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

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

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

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

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

11 **IV. REPORTS**

12
13 A. CONTRACTOR shall maintain records and make statistical reports as required by
14 ADMINISTRATOR and the DHCS on forms provided by either agency.

15 B. FISCAL

16 1. CONTRACTOR shall submit monthly Expenditure and Revenue Reports to
17 ADMINISTRATOR. These reports will be on a form acceptable to, or provided by,
18 ADMINISTRATOR and will report actual costs and revenues for CONTRACTOR's program described
19 in the Services Paragraph of this Exhibit A to the Agreement. Such reports will also include total bed
20 days, DSH and number of Clients by program. The reports will be received by ADMINISTRATOR no
21 later than the twentieth (20th) day following the end of the month being reported. CONTRACTOR
22 must request in writing any extensions to the due date of the monthly required reports. If an extension is
23 approved by ADMINISTRATOR, the total extension will not exceed more than five (5) calendar days.

24 2. CONTRACTOR shall submit monthly Year-End Projection Reports to
25 ADMINISTRATOR. These reports will be on a form acceptable to, or provided by,
26 ADMINISTRATOR and will report anticipated year-end actual costs and revenues for
27 CONTRACTOR's program described in the Services Paragraph of this Exhibit A to the Agreement.
28 Such reports will include actual monthly costs and revenue to date and anticipated monthly costs and
29 revenue to the end of the fiscal year. Year-End Projection Reports will be submitted in conjunction with
30 the Monthly Expenditure and Revenue Reports.

31 C. STAFFING – CONTRACTOR shall submit monthly Staffing Reports to ADMINISTRATOR.
32 These reports will be on a form acceptable to, or provided by, ADMINISTRATOR and will, at a
33 minimum, report the actual FTEs of the positions stipulated in the Staffing Paragraph of this Exhibit A
34 to the Agreement and will include the employees' names, licensure status, monthly salary, hire and/or
35 termination date and any other pertinent information as may be required by ADMINISTRATOR. The
36 reports will be received by ADMINISTRATOR no later than twenty (20) calendar days following the
37 end of the month being reported. If an extension is approved by ADMINISTRATOR, the total

1 extension will not exceed more than five (5) calendar days.

2 D. PROGRAMMATIC – CONTRACTOR may be required to submit weekly and/or monthly
3 census reports to ADMINISTRATOR. These reports shall be on a form acceptable to, or provided by,
4 ADMINISTRATOR. ADMINISTRATOR may request additional program reports of CONTRACTOR
5 in order to determine the quality and nature of services provided hereunder. ADMINISTRATOR will
6 be specific as to the nature of information requested, and may allow up to thirty (30) calendar days for
7 CONTRACTOR to respond to request.

8 E. ADDITIONAL REPORTS – CONTRACTOR shall submit additional reports as reasonably
9 required by ADMINISTRATOR concerning CONTRACTOR’s activities as they affect the duties and
10 purposes contained in the Agreement. ADMINISTRATOR will provide CONTRACTOR with at least
11 thirty (30) calendar days’ notice if such additional reports are required, and shall explain any procedures
12 for reporting the required information.

13 F. CONTRACTOR shall report all special incidents to ADMINISTRATOR and shall submit a
14 written Special Incident Report in accordance with the Notices Paragraph of the Agreement. Special
15 incidents shall include, but are not limited to, Consumer's suicide or attempted suicide, elopement or
16 absence without leave, serious injury, death, criminal behavior including arrests with or without
17 conviction, positive test results for substance abuse from urine screenings, or any other incident which
18 may expose COUNTY or CONTRACTOR to liability.

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

21 22 **V. SERVICES**

23 A. INDIVIDUALS TO BE SERVED – single adults eighteen (18) years or older who are
24 homeless, and who are diagnosed with a Serious and Persistent Mental Illness (SPMI) and/or who are
25 dually diagnosed with a SPMI and a Substance Use Disorder (SUD). In the case of couples or families,
26 at least one (1) adult member of the household must meet the diagnostic requirement. The individual or
27 household combined income cannot exceed thirty percent (30%) of Area Median Income (AMI).

28 1. CONTRACTOR shall provide Bridge Housing services to adults and older adults as
29 described above, who are homeless SPMI Clients referred by County and County-contracted clinics,
30 HCA's Outreach and Engagement Team and other referral sources approved by ADMINISTRATOR.
31 The Clients may be currently holding active Continuum of Care Housing Program Certificates issued by
32 Orange County Housing Authority (OCHA) and unable to locate housing.

33 2. CONTRACTOR shall assist Clients in locating housing. Clients may no longer be eligible
34 for Bridge Housing services in the following circumstances: once housing has been located, a lease has
35 been signed, and the Client has occupied the new unit, or when income exceeds thirty percent (30%) of
36 AMI. Extensions and exceptions may be considered and must be approved by the ADMINISTRATOR.

37 3. CONTRACTOR shall provide life skills and independent living skills training to facilitate

1 the Client's transition to an independent living arrangement such as: use of public transportation,
 2 grooming/hygiene, dressing for success, laundry, care and management of belongings, housekeeping,
 3 meal planning and preparation, making household or personal item purchases and money management,
 4 use of community resources, and leisure time management. Skills training may be provided in group
 5 and/or individual modalities.

6 4. CONTRACTOR shall provide medication support to include:
 7 a. Training to educate staff on effects and side-effects of psychotropic medications;
 8 b. Encouraging Clients to know what medications and dosages they are taking and the
 9 importance of remaining compliant with medication as well as to help them recognize the potential side
 10 effects and dangers of combining medications with other substances;
 11 c. Monitoring medication compliance, and working cooperatively and effectively with the
 12 Client's prescribing physician;
 13 d. Providing proper medication storage; and
 14 e. Ensuring that Clients remain compliant with all aspects of their physical and mental
 15 health, such as making and keeping appointments.

16 5. CONTRACTOR shall assist Clients in developing skills to manage interpersonal behaviors
 17 that could interfere with their ability to remain independently housed within the community. This
 18 includes interacting with staff, housemates, and/or landlords, maintaining their personal space in good
 19 order, and being a good neighbor.

20 6. CONTRACTOR shall monitor for specific signs of psychiatric decomposition or relapse
 21 and be prepared to implement appropriate corrective action in coordination with assigned clinic staff if
 22 needed.

23 7. CONTRACTOR shall provide basic ingredients for preparing at least a nutritious breakfast
 24 and lunch per day. Clients shall be responsible for preparing their own breakfast and lunch, but
 25 contractor shall provide basic staples and an equipped kitchen. Provider shall make provisions for
 26 residents to safely store any personal food items, both in the refrigerator and a section of pantry or
 27 //
 28 cabinet storage. The CONTRACTOR shall provide one (1) nutritious warm meal in the evening for all.
 29 Residents shall be encouraged to participate in the preparation and clean-up of all meals.

30 8. CONTRACTOR shall provide linkage/coordination to transportation for medical and case
 31 management appointments, appointments with potential landlords, shopping, and other needs.

32 9. CONTRACTOR shall facilitate weekly house meetings, assign and oversee daily basic
 33 Client chores; Clients shall participate in establishing the weekly facility meeting which encourages
 34 residents to provide input into the operations of the facility that includes, but is not limited to, activities,
 35 house rules, and resolution of disputes/disagreements. CONTRACTOR shall, with the collaboration of
 36 assigned Plan Coordinators/Case Manager, provide crisis intervention, benefit acquisition or
 37 reinstatement, document readiness, and linkage to vocational and/or educational assessment/services.

1 10. CONTRACTOR shall assist Clients to secure housing, to find and coordinate housing and
 2 ancillary resources in the community. Ensuring that Clients have access/linkage to required apartment
 3 items (i.e., refrigerators) if not supplied by the landlord. CONTRACTOR shall assist Clients to locate
 4 household items.

5 11. CONTRACTOR may lease/rent and maintain house(s), apartment building(s),
 6 apartments/condominiums, motels and/or other housing options.

7 12. CONTRACTOR shall seek to assist the SPMI homeless Clients to locate rental units and
 8 negotiate leases, CONTRACTOR may seek other housing options for Clients which are deemed
 9 appropriate with prior authorization from ADMINISTRATOR.

10 B. FACILITY

11 1. CONTRACTOR shall provide and maintain at least one (1) shared home site for Clients at
 12 the following locations, or any other location approved, in advance, in writing, by ADMINISTRATOR.

13
 14 1335 South Coast Highway
 15 Laguna Beach, CA 92652

16
 17 2. A second and additional homes may be added after the first home has stabilized, and there
 18 is a demonstrated need for additional beds. Homes may be located anywhere in Orange County as long
 19 as public transportation is easily accessible. If there are multiple homes, they should be located
 20 throughout the County where the biggest geographical demand exists.

21 3. The Bridge Housing site(s) must meet any municipal requirements for their locales and may
 22 be subject to inspection. The facility should be in an area readily accessible by public transportation,
 23 and should include the following:

- 24 a. Private or semi-private bedroom for each Client. More than two people to a room may
 25 be arranged with prior ADMINISTRATOR approval;
- 26 b. Kitchen area including refrigerator, stove, oven, and sink;
- 27 c. Dining area;
- 28 d. Central living area or group room with an appropriate capacity for group meetings,
 29 activities or visitors; and
- 30 e. An outdoor recreation area.

31 4. CONTRACTOR shall provide furniture for each Client, which shall include a twin bed,
 32 dressers, end tables and lamps. Other furnishings shall include, but are not limited to, a sofa, coffee
 33 table, dining table and chairs, and a television.

34 5. CONTRACTOR shall have a policy and procedure to prevent and eradicate bedbugs.

35 6. CONTRACTOR shall purchase supplies for the house, including, but not limited to: two (2)
 36 sets of sheets per bed, two (2) sets of towels and wash cloths per Client, blankets, pillows, and bed
 37 covers for each bed, as well as kitchen and dining equipment.

1 7. CONTRACTOR shall provide laundry equipment and supplies and personal hygiene items
2 for each Client.

3 8. CONTRACTOR shall provide necessary basic pantry items as stated in Section V.A.7.

4 9. CONTRACTOR shall be responsible for maintaining the condition and cleanliness of the
5 house and surrounding grounds.

6 10. CONTRACTOR shall provide a secure drug-free environment.

7 11. CONTRACTOR shall be responsible for negotiating the leases and ensuring that the leased
8 units remain in good condition.

9 **C. PERFORMANCE OUTCOMES**

10 1. Contractor shall contact a minimum of fifteen (15) potential landlords per month.

11 2. A minimum of fifty percent (50%) of Clients with Continuum of Care certificates will
12 move into permanent/stable housing within one (1) year of entry to Bridge Housing.

13 3. A minimum of fifty percent (50%) of Clients without Continuum of Care certificates will
14 move into permanent/stable housing within eighteen (18) months of entry of Bridge Housing.

15 4. A minimum of fifty percent (50%) of Clients will secure either work or entitlements within
16 six (6) months of entry.

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

19
20 **VI. STAFFING**

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

26 1. Designate the responsible position(s) in your organization for managing the funds allocated
27 to this program;

28 2. Maximize the use of the allocated funds;

29 3. Ensure timely and accurate reporting;

30 4. Maintain appropriate staffing levels;

31 5. Ensure staff possess the qualification and capacity to perform responsibilities tied to the
32 staff's position;

33 6. Ensure staff are not on any formal or informal supervision;

34 7. Effectively communicate and monitor the program for its success;

35 8. Maintain communication between the CONTRACT key staff and Program Administrators;
36 and,

37 9. Act quickly to identify and solve problems.

B. Staff shall be available on site, seven (7) days per week for each site(s). Staffing pattern shall provide for at least one (1) staff member to be on duty and awake twenty-four (24) hours a day, seven (7) days a week, unless otherwise approved by the ADMINISTRATOR. Staff shall be available during normal working hours.

C. Staff shall ensure that all program sites are well maintained, food is supplied.

D. Experience with the SPMI population is preferred. Staff should be trained to recognize signs of decompensation and be prepared to provide the appropriate level of intervention as needed.

E. One (1) or more staff will work with the Clients to apply for available housing units. The staff should work closely with any Housing Navigators working with the SPMI population, and collaborate with existing systems to ensure maximum utilization of services and reduce duplicative efforts. This includes, but is not limited to, assistance with all issues related to securing housing such as developing housing leads, identifying landlords willing to work with the population, creating suitable housing options from available stock, working with landlords to develop positive relationships, assisting Clients to be document ready for housing interviews, and assisting with transportation for housing search purposes. Staff will meet with property managers, coach residents to be successful when meeting with potential property managers, and prepare them for moving into a unit. Staff may also work to develop shared housing options for residents. Staff will work in collaboration with the Client’s case manager to ensure both parties are aware of one another’s efforts and progress. Caseloads should be limited to fifteen (15) Clients at any given time.

F. If Clients are not connected to supportive services, one (1) or more staff will assist the Clients with linkage to supportive services in order to receive needed services to initiate recovery from their disabling condition(s). This includes assisting Case Managers to obtain records needed for benefits acquisition. Staff will also assist with all housing search activities as described above.

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

| PROGRAM | FTEs |
|--|------------------|
| Executive Director | 0.025 |
| Director of Finance | 0.025 |
| Contracts Manager..... | 0.025 |
| Payroll and Accounting Administrator..... | 0.025 |
| HMIS Data Associate | 0.025 |
| HR Manager | 0.025 |
| Chief Operating Officer..... | 0.025 |

| | | |
|----|---|-------------------------|
| 1 | Director of Program Development & Compliance..... | 0.025 |
| 2 | Director of Housing & Operations | 0.025 |
| 3 | Director of Services | 0.050 |
| 4 | Operations Manager | 0.025 |
| 5 | Bridge Housing Program Manager..... | 0.300 |
| 6 | Housing Coordinator/Navigator | 1.000 |
| 7 | Housing Locator | 0.600 |
| 8 | Addiction Counselor..... | 0.150 |
| 9 | Guest Advocate | 1.250 |
| 10 | SUBTOTAL PROGRAM | 3.600 |
| 11 | <hr/> | |
| 12 | | TOTAL FTEs 3.600 |

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

| <u>PROGRAM</u> | <u>FTEs</u> |
|--|-------------|
| Executive Director | 0.03 |
| Director of Finance | 0.03 |
| Contracts Manager..... | 0.025 |
| Payroll and Accounting Administrator..... | 0.025 |
| HMIS Data Associate | 0.025 |
| HR Manager | 0.025 |
| Chief Operating Officer..... | 0.025 |
| Director of Program Development & Compliance.. | 0.025 |
| Director of Housing & Operations | 0.025 |
| Director of Services | 0.050 |
| Operations Manager | 0.025 |

| | | |
|----|--|--------------|
| 1 | <u>Bridge Housing Program Manager.....</u> | <u>0.300</u> |
| 2 | <u>Housing Coordinator/Navigator</u> | <u>1.000</u> |
| 3 | <u>Housing Locator</u> | <u>0.600</u> |
| 4 | <u>Guest Advocate</u> | <u>1.875</u> |
| 5 | <u>Contract Administrator</u> | <u>0.010</u> |
| 6 | <u>Compliance Associate</u> | <u>0.025</u> |
| 7 | <u>SUBTOTAL PROGRAM</u> | <u>4.100</u> |
| 8 | | |
| 9 | | |
| 10 | TOTAL FTEs | 4.100 |

11 H. CONTRACTOR shall maintain personnel files for each staff member, including the Executive
 12 Director and other administrative positions, which will include, but not be limited to, an application for
 13 employment, qualifications for the position, documentation of bicultural/bilingual capabilities (if
 14 applicable), pay rate and evaluations justifying pay increases.

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

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EXHIBIT B
 AGREEMENT FOR PROVISION OF
 HOMELESS BRIDGE HOUSING SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 FRIENDSHIP SHELTER, INC.
 JULY 1, 2018 THROUGH JUNE 30, 2021

I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

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

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

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

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

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

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

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

3 B. DEFINITIONS

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

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

10 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of
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 immediately any Use or Disclosure of PHI
12 not provided for by this Business Associate Contract of which CONTRACTOR becomes aware.
13 CONTRACTOR must report Breaches of Unsecured PHI in accordance with subparagraph E below and
14 as required by 45 CFR § 164.410.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 D. SECURITY RULE

10 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish
11 and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with
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
19 45 CFR Part 164, Subpart C, in compliance with 45 CFR § 164.316. CONTRACTOR will provide
20 COUNTY with its current and updated policies upon request.

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

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

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

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

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

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

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

7 E. DATA SECURITY REQUIREMENTS

8 1. Personal Controls

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

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

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

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

34 2. Technical Security Controls

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

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

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

7 c. Minimum Necessary. Only the minimum necessary amount of PHI COUNTY 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 (i.e. USB thumb drives,
13 floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified
14 algorithm which is 128bit or higher, such as AES. Such PHI shall not be considered “removed from the
15 premises” if it is only being transported from one of CONTRACTOR’s locations to another of
16 CONTRACTOR’s locations.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 5. Paper Document Controls

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

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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 five hundred (500) or more individually identifiable records containing PHI COUNTY discloses to
19 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in
20 a single package shall be sent using a tracked mailing method which includes verification of delivery
21 and receipt, unless the prior written permission of COUNTY to use another method is obtained.

22 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

13 1) The Disclosure is required by law; or

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

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

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

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

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

28 H. PROHIBITED USES AND DISCLOSURES

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

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

I. OBLIGATIONS OF COUNTY

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

4
5 2. COUNTY shall notify CONTRACTOR of any changes in, or revocation of, the permission
6 by an Individual to use or disclose his or her PHI, to the extent that such changes may affect
7 CONTRACTOR's Use or Disclosure of PHI.

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

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

J. BUSINESS ASSOCIATE TERMINATION

13
14 1. Upon COUNTY's knowledge of a material Breach or violation by CONTRACTOR of the
15 requirements of this Business Associate Contract, COUNTY shall:

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

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

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

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

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

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

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

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EXHIBIT C
 AGREEMENT FOR PROVISION OF
 HOMELESS BRIDGE HOUSING SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 FRIENDSHIP SHELTER, INC.
 JULY 1, 2018 THROUGH JUNE 30, 2021

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

7 B. TERMS OF AGREEMENT

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

12 2. Responsibilities of CONTRACTOR

13 CONTRACTOR agrees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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