



**CONTRACT BETWEEN**

**COUNTY OF ORANGE**

**AND**

**HEALTH AND HUMAN RESOURCE CENTER  
DBA AETNA RESOURCES FOR LIVING**

**FOR**

**AN EMPLOYEE ASSISTANCE PROGRAM**

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## **CONTRACT FOR AN EMPLOYEE ASSISTANCE PROGRAM**

This Agreement, hereinafter referred to as “Contract” is effective January 1, 2025 by and between the County of Orange, a political subdivision of the State of California; hereinafter referred to as “County,” and Health and Human Resource Center dba Aetna Resources for Living, with a place of business at 9350 Waxie Way, #210, San Diego, CA 92123; hereinafter referred to as “Contractor,” with County and Contractor sometimes referred to as “Party”, or collectively as “Parties.”

### **RECITALS**

**WHEREAS**, Contractor responded to a Request for Proposal (“RFP”) for an Employee Assistance Program as defined herein; and

**WHEREAS**, the Contractor responded and represented that its proposed services shall meet or exceed the requirements and specifications of the RFP; and

**WHEREAS**, the County Board of Supervisors has authorized the Purchasing Agent or his designee to enter into a Contract for an Employee Assistance Program; with the Contractor;

**NOW, THEREFORE**, the Parties mutually agree as follows:

### **ARTICLES**

**1. Scope of Services:**

This Contract specifies the contractual terms and conditions by which the County will procure services from Contractor as further detailed in the Scope of Services, identified and incorporated herein by this reference as “Attachment A - Scope of Work.”

**2. Compensation:**

The Contractor agrees to accept the specified compensation as set forth in Attachment B, Cost & Compensation, identified and incorporated herein by this reference, as full payment for (a) performing all services and furnishing all staffing and materials required, (b) any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, (c) risks connected with the services, and (d) performance by the Contractor of all its duties and obligations hereunder.

**3. Term of Contract:**

The initial term of this Contract is for three (3) years, effective January 1, 2025, and continuing for three (3) years from that date, unless earlier terminated by the County. The Contract Term may be renewed for up to two (2) additional consecutive one (1) year terms, upon the mutual written agreement of the Parties. The County does not have to give reason if it elects not to renew. Renewal of the Contract may require approval by the County Board of Supervisors. Permitted renewals of the Contract provided in this paragraph 3 shall not result in any change in any other term, condition or provision of this Contract.

**4. Entire Agreement:**

This Contract, including its Attachments A through H, as they now exist or may hereafter be changed, modified, or amended, and which are attached hereto and incorporated herein by this reference, constitutes the entire Contract between the Parties with respect to the matters herein. There are no restrictions, promises, warranties or undertakings other than those set forth or referred to herein. No exceptions, alternatives, substitutes, understandings, agreements or revisions, whether oral or written, are valid or binding on the County unless authorized by the County in writing. Electronic acceptance of any additional terms, conditions or supplemental contracts by any County employee or agent, including but not limited to installers of software,

shall not be valid or binding on the County unless accepted in writing by the County's Purchasing Agent or designee.

**5. Amendments:**

No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on the County unless authorized by the County in writing.

**6. Governing Law and Venue:**

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

**7. Contingency of Funds:**

Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

**8. Taxes:**

Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.

**9. Delivery:**

Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse services and to cancel all or any part of the services not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.

**10. Independent Contractor:**

Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under the Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.

**11. Assignment or Sub-contracting:**

The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any

portion thereof may be assigned or sub-contracted by Contractor without the express written consent of the County's Program Manager, as identified below. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County's Program Manager shall be invalid and shall constitute a breach of this Contract. Irrespective of any assignment of subcontracting with respect to any portion of this Contract, Contractor shall remain fully responsible and liable for the performance of all services required herein. Notwithstanding the preceding provisions of this paragraph, (i) services to be performed for County under this Contract may be performed by personnel of Contractor or of any other entity that is controlling, controlled by, or under common control with, Contractor and (ii) Contractor may assign this Contract and all rights, duties and obligations hereunder to any other entity that is controlling, controlled by, or under common control with the Contractor that succeeds to the business of Contractor providing the services under this Contract. Notwithstanding this paragraph or any other terms or provisions set forth in this Contract or its attachments, none of the work done for the County, its employees, agents, directors, elected officials or their dependents as relates participant interaction may be performed outside the United States of America, with the exception of core Account Team Members as named in Staffing Plan, Attachment D, or otherwise approved by County, on an as needed basis. In no case may participant specific data be sent to locations outside the United States of America. To the extent that non-core account team members, special project teams and the like are required to do work for the County outside the United States of America, data will not include participant data that will allow for personal identification either as a standalone data element or in combination, for example, social security number, date of birth, personal health information, and home addresses. In instances where previously identified core Account Team Members are required to access participant specific data, as approved by the County, on an as needed basis while outside the United States of America, data will be accessed and viewed only, and will not be stored, changed, or updated in any fashion.

**12. Non-Discrimination:**

In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any sub-contractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of anti-discrimination laws or regulations including but not limited to Section 1741 of the California Labor Code.

**13. Performance:**

Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other services performed by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the services; and, if permitted to sub-contract, shall be fully responsible for all work performed by sub-contractors.

**14. Errors and Omissions:**

All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as Account Manager and Key Personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors

or omissions in the reports, files or other written documents submitted by Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction at no charge to County.

**15. Warranty:**

Contractor expressly warrants that the services covered by this Contract: 1) will be performed in a timely, competent and professional manner, in accordance with highest industry standards, by duly qualified and experienced Contractor personnel possessing all relevant certifications, licenses and permits; 2) will conform to the specifications set forth herein and 3) are fit for the particular purpose intended. Acceptance of this Contract shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnitees, as identified in paragraph 18 below and as more fully described in paragraph 18, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, regulations, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.

**16. Patent/Copyright Materials/Proprietary Infringement:**

Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph 18 below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.

**17. Compliance with Laws:**

Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph 18 below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

**18. Indemnification:**

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

**19. Insurance Provisions:**

Prior to the provision of services under this Contract, the Contractor agrees to carry all required insurance at



Contractor’s expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage current, provide Certificates of Insurance, and endorsements to the County during the entire term of this Contract.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall maintain the level of insurance coverage which is commensurate with the scope of work provided. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIR)’s shall be clearly stated on the Certificate of Insurance. The County reserves the right to require current audited financial reports from Contractor. If Contractor is self-insured, Contractor will indemnify the County for any and all claims resulting or arising from Contractor’s services in accordance with the indemnity provision stated in this contract.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

**Qualified Insurer**

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**).

If the insurance carrier does not have an A.M. Best Rating of A-/VII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings. The policy or policies of insurance maintained by the Contractor shall provide the minimum 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 or scheduled, non-owned and hired vehicles	\$1,000,000 combined single limit each accident
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per accident or disease
Professional Liability	\$3,000,000 per claims-made \$3,000,000 aggregate
Network Security & Privacy Liability	\$3,000,000 per claims-made

Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies when required must provide Follow Form coverage.

**Required Coverage Forms**

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

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

**Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1.) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the *County of Orange, its elected and appointed officials, officers, employees, and agents* as Additional Insureds, or provide blanket coverage, which will state *As Required by Written Contract*.
- 2.) A primary non-contributing endorsement using ISO CG 20 01 04 13, or a form at least as broad evidencing that the Contractor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers’ Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the *County of Orange, its elected and appointed officials, officers, employees and agents* or provide blanket coverage, which will state *As Required by Written Contract*.

To the extent commercially available by the insurer, the Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance to the extent commercially available by the insurer:

- 1.) An Additional Insured endorsement naming the County of Orange, its elected and appointed officials, officers, employees, and agents as Additional Insureds for its vicarious liability.
- 2.) A primary and non-contributing endorsement evidencing that the Contractor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing except for the County’s sole negligence

All insurance policies required by this Contract, except for Professional Liability and Network Security & Privacy Liability which shall be to the extent commercially available by the insurer, shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees, and agents when acting within the scope of their appointment or employment.

Contractor shall provide thirty (30) days prior written notice to the County of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

If Contractor’s Professional Liability and/or Network Security & Privacy Liability is/are “Claims-Made” policy(ies), Contractor shall agree to the following:

- 1.) The retroactive date must be shown and must be before the date of the Contract or the beginning of the Contract services.
- 2.) Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after expiration or earlier termination of Contract services.
- 3.) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the contract services, Contractor must purchase

an extended reporting period for a minimum of three (3) years after expiration of earlier termination of the Contract.

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

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

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

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the Term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

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

**20. Emergency/Declared Disaster Requirements:**

In the event of an emergency or if Orange County is declared a disaster area by the County, state or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County's needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor's supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.

**21. Confidentiality:**

Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the Term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees. Contractor hereby agrees it will meet or exceed the requirements for cybersecurity as outlined in Attachments G and H of this Contract. A failure to meet these requirements for cybersecurity will be considered a breach of this Contract.

**22. Contractor Personnel:**

Contractor warrants that all Contractor personnel engaged in the performance of work under this Contract shall possess sufficient experience and/or education and the required licenses set forth herein in good standing to perform the services requested by the County. County expressly retains the right to have any of the Contractor personnel removed from performing services under this Contract to the County. Contractor shall effectuate the removal of the specified Contractor personnel from providing any services to the County under

this Contract within one business day of notification by County. County shall submit the request in writing to the Contractor's Account Manager. The County is not required to provide any reason, rationale or additional factual information if it elects to request any specific Contractor personnel be removed from performing services under this Contract.

**23. Contractor's Account Manager and Key Personnel:**

Contractor shall appoint an Account Manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Account Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Program Manager, which consent shall not be unreasonably withheld.

The Contractor's Account Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The County's Program Manager shall have the right to require the removal and replacement of the Contractor's Account Manager from providing services to the County under this Contract. The County's Program manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice by the County's Program Manager. The County's Program Manager shall review and approve the appointment of the replacement for the Contractor's Account Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Account Manager from providing further services under the Contract.

**24. County's Program Manager:**

The County shall appoint a Program Manager to act as liaison between the County and the Contractor during the Term of this Contract. The County's Program Manager shall coordinate the activities of the County staff assigned to work with the Contractor.

**25. Reports/Meetings:**

The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The County's Program Manager and the Contractor's Account Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Account Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.

**26. Ownership of Documents:**

The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole properties of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County.

**27. Title to Data:**

All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.

**28. Records:**

The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles.

**29. Audits/Inspections:**

Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Contractor's records before final payment is made. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any sub-contractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the County's Program Manager.

**30. Publication:**

No copies of schedules, written documents, and computer based data, photographs, maps or graphs, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both Parties.

**31. Conflict of Interest:**

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, agents and subcontractors associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees, agents and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.

**32. Termination:**

In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of this Contract or any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.

**33. Breach of Contract:**

The failure of the Contractor to comply with any of the terms, provisions, covenants or conditions of this Contract shall constitute a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a. Terminate this Contract immediately, without penalty to the County;
- b. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
- c. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
- d. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.

**34. Disputes:**

The Parties shall deal in good faith and attempt to resolve potential disputes informally. If a dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Account Manager and the County's Program Manager, such matter shall be brought to the attention of the Purchasing Agent by way of the following process:

- a. The Contractor shall submit to the Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
- b. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to this Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the amount for which the Contractor believes the County is liable.
- c. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of his Contract, including the provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County's Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. Nothing in this section shall be construed as affecting the County's right to terminate the Contract for cause or termination for convenience as stated in Section 32, Termination, herein.

**35. Orderly Termination:**

After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Contract.

**36. Force Majeure:**

Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil

disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and Contractor avails himself of any available remedies.

**37. Consent to Breach Not Waiver:**

No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

**38. Remedies Not Exclusive:**

The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.

**39. Notices:**

Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given herein shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the County's Program Manager and Contractor's Account Manager routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

County: Program Manager, Lauren Pierson  
Human Resource Services/Employee Benefits  
400 W. Civic Center Drive, Suite 111  
Santa Ana, CA 92701

cc: Human Resource Services/Employee Benefits  
Attn: Deputy Purchasing Agent  
400 W. Civic Center Drive, Suite 111  
Santa Ana, CA 92701

Contractor: Aetna Resources for Living  
Attn: Gigi Kaney  
9350 Waxie Way, #210  
San Diego, CA 92123

**40. EDD Independent Contractor Reporting Requirements:**

Effective January 1, 2001, the County of Orange is required to file in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a "service provider" to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single

calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent Contractors. An independent Contractor is defined as “an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California.” The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at [http://www.edd.ca.gov/Employer\\_Services.htm](http://www.edd.ca.gov/Employer_Services.htm).

**41. Change Of Ownership/Name, Litigation Status, Conflicts with County Interest:**

Contractor agrees that if there is a change or transfer in ownership of Contractor’s business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor’s duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor’s status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor’s performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor’s name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

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

**42. Precedence:**

The Contract documents herein consist of this Contract and its attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the articles of this Contract, and then the attachments.

**43. Headings:**



The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

**44. Severability:**

If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

**45. Calendar Days:**

Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.

**46. Attorney Fees:**

In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney’s fees, costs and expenses.

**47. Interpretation:**

This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing, or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.

**48. Authority:**

The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

**49. Survival:**

Notwithstanding any provision to the contrary herein, the provisions of paragraphs 15, 16, 17, 18 and 19 shall survive the termination of this Contract.

**50. Employee Eligibility Verification:**

The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

**51. Bills and Liens:**

Contractor shall pay promptly all indebtedness for labor, materials, and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph 18 above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

**52. Changes:**

Contractor shall make no changes in the work or perform any additional work without County's specific written approval.

**53. Terms and Conditions:**

Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.

**54. Incorporation:**

This Contract and its Attachments A through H, are attached hereto and incorporated by reference and made a part of this Contract.

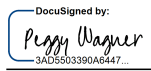
**(SIGNATURE PAGE FOLLOWS)**

**SIGNATURE PAGE**


IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

**Health and Human Resource Center dba Aetna Resources for Living\***

\* If the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth. The first corporate officer signature must be one of the following: 1) the Chairman of the Board, 2) the President or 3) any Vice President. The second corporate officer signature must be one of the following: 1) Secretary, 2) Assistant Secretary, 3) Chief Financial Officer or 4) Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above-described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the corporation.

Peggy Wagner	President
<hr/>	<hr/>
Print Name	Title
	10/30/2024

Signature	Date
Brian Tweten	CFO

<hr/>	<hr/>
Print Name	Title
	10/30/2024

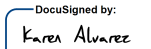
Signature	Date
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**COUNTY OF ORANGE**

A political subdivision of the State of California

Karen Alvarez	Deputy Purchasing Agent
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<hr/>	<hr/>
Print Name	Title
	11/20/2024

Signature	Date
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Approved by Board of Supervisors on: Date 11/19/2024

**APPROVED AS TO FORM:**


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Deputy, Office of County Counsel  
Orange County, California

**ATTACHMENT A**  
**Scope of Work**

The Total Annual Cost assumes provision of all services within the Scope of Work unless otherwise stated. The contracted vendor will be required to perform the following services, including but not limited to:

**a. Facilities and Staffing**

Contractor shall:

1. Provide EAP services in Contractor's offices or offices of County approved Providers. Service locations shall be mutually agreed upon, in writing, and approved by County Program Manager. Normal services shall be delivered within five business days of a request by a participant. Emergency services will be available on a 24-hour-per-day, 7 day-per-week basis. Emergencies will be handled on an immediate basis.
2. Make accommodations for handicapped clients at Contractor or Provider service locations and any future service sites that may be required.
3. Maintain 24 hour, seven days a week access including holidays, to a toll free telephone number with live answer and immediate access to a clinician so that employees, dependents, and County supervisors have immediate access to EAP services when needed, particularly during crisis. Answering services or message machines are not acceptable. Any changes or additions to existing phone numbers during the term of the contract shall be submitted in writing to County 90 days prior to the proposed change and shall be added to existing literature, cards, or other information provided to the employees or agencies, at the Contractor's cost.
4. Maintain a sufficient professional staff that meet all necessary qualifications and licenses required but not limited to California State and Federal law and regulations to provide the subject services in a timely manner, including a minimum of one professional interviewer with at least a Master's Degree in Counseling, Psychology or Social Work and knowledge of community resources or any equivalent combination of education training and experience. Identify qualification of Contractor's staff. Contractor should supply adequately trained personnel to accommodate the County's multi-lingual population.

**b. Employees and Their Families**

Contractor shall:

1. Through the toll free line, EAP office locations and/or website, provide assessment and referral to EAP services for necessary mental health and substance abuse treatment services to appropriate community resources. Such assessment and referral to services shall be provided to employees and their family members recognizing language and cultural differences, as well as other potential barriers to effective counseling.
2. At no charge to the employee or family member, provide a minimum of six (6) free, face-to-face sessions for diagnostic assessment, referral and, brief private counseling sessions per incident each year with either counselor who hold one or more of the following credentials: FCC, LCSW, MFCC, Ph.D., Certified Alcohol and Drug Abuse Counselor (CADAC) or Certified Employee Assistance Professional (CEAP) counselors.

3. Hold a valid Knox Keene license or demonstrate compliance with California Knox Keene requirements for any counseling visits.
4. Counseling shall be provided for the full range of common short term counseling needs, such as, but not limited to; family problems, marital problems, drug/alcohol abuse and dependency, depression, anxiety, stress/tension/grief, child and adolescent problems, job performance problems, job attendance problems, inter-personal problems with co-workers and supervisors, and single presenting problems. Intake assessment and referral for medical and referral for medical, debt and legal problems shall be provided by Contractor's certified EAP personnel, with appropriate support counseling to resolve any problems contributing to the medical, debt or legal problems.
5. Provide referral services, when deemed to be warranted, to certified EAP personnel and/or designated health care providers or utilize community resources and providers, which give the best quality care at most reasonable cost.
6. Provide written compliance letter to County Drug Test Administrator in cases of positive alcohol or drug test referrals.
7. Track employee participation and monitor the effectiveness of referral programs for 100% of all referrals (including 100% of all emergent referrals within 24 hours and all urgent referrals within 48 hours and all substance abuse referrals within 7 business days).
8. Maintain office hours that accommodate diverse work shifts by having day, evening, and Saturday office hours. Specify if services will be available at one and/or multiple office locations and specify the office hours for each location.
9. Provide timely appointments for assessment and referral within the following standards: emergent callers 0 to 6 hours, as clinically appropriate, urgent appointments 48 hours, routine appointments 5 business days.
10. Maintain confidentiality according to all State and Federal laws.
11. Develop and provide monthly "Lunch Time" seminars at various County locations on topics of health, financial, legal, or other topics as appropriate depending on the time of year and the current issues facing County employees.
12. Coordinate the necessary referral and match network status for mental health and substance abuse in conjunction with the employee's possible health plan benefits.
13. Maintain a website for employees and families to obtain relevant information regarding EAP topics.
14. When employees and family members call for services, contractor shall:
  - a. Offer to find and secure an appointment for the member.
  - b. Confirm provider availability on behalf of the member
  - c. Make every attempt to locate a provider who indicates they participate with the member's medical/behavioral health insurance network to ensure continuity of care.
  - d. Ensure members have access to schedule virtual or in-person counseling visits through an online scheduling system.

15. Provide capabilities for self-service scheduling and automated authorizations.
16. Ensure provider search functions include the ability for members to search and filter based on their individual preferences, view provider biographies online and schedule a consultation to find a best fit provider.

**c. County Management/Supervisory Training and Educational Material**

Contractor shall:

1. In the event of a mandatory supervisory referral the Contractor shall develop and execute written Management Referral Forms once signed, the County can receive immediate 'compliance' updates with EAP participants.
2. In the event of a mandatory supervisory referral the Contractor shall coordinate with the employees' supervisors, including providing information regarding:
  - Whether the employee made and /or kept the EAP appointment
  - Whether the employee accepted or rejected the Employee Assistance Program's recommendation.
  - The employee's progress and status
3. Provide, as needed by agency/departments, training and orientation sessions to County management and supervisory personnel on the program, goals, benefits, and how to refer, including handouts and/or reference materials.
4. Provide educational and promotional videos and materials to the County for use in employee orientations.
5. Provide unlimited 24/7 management consultation and support to managers, supervisors, and departments, which will enhance the use of the EAP as a management resource.

**d. Program Promotion**

Contractor shall:

1. Enhance the visibility of the EAP services by marketing the program through a publicity plan including EAP educational materials such as emails, newsletters, brochures, magnets, pamphlets for all County employees. Text must be prepared and printed by Contractor, subject to review and approval by the County Program Manager.
2. Provide a quarterly EAP Newsletter email. Text must be prepared by Contractor, subject to review and approval by the County Program Manager.
3. Provide articles for the newsletter that are appropriate for the issues facing County employees and their families, including articles, which upon request, will be customized to the County.
4. Upon request, provide additional informational articles and/or fliers, including those customized to the County employees.
5. Design, produce, and distribute brochures, posters, pocket cards, and other promotional materials for use in all County facilities, made available in Spanish, Vietnamese, Japanese, Farsi, Tagalog, Thai, Laotian, Chinese and Cambodian. As well as some professionals who can provide services in sign language.

6. Materials to be distributed by Contractor, to County agency/departments on request.
7. Participate, upon request, in a minimum of 3 Health Fairs and/or Wellness activities organized for County employees. Provide Annual Management training on EAP, EAP Orientation for Employees, and provide two (2) EAP staff persons to participate in annual OCEA Health Fair booth.
8. Inform the various employee organizations about the EAP and work with them to facilitate referrals to the EAP.
9. At County's discretion, produce and distribute semi-annual communication campaigns to promote EAP services to eligible population.

**e. Critical Incident Stress Debriefings (CISD's)**

Contractor shall:

1. Provide on-site group and individual counseling for employees/supervisors who have experienced trauma/crisis in the workplace. If there are time or scheduling constraints, multiple sessions are to be scheduled, and alternative meeting places are to be arranged. For purposes of this contract, a Critical Incident Stress Debriefing is defined as a traumatic incident occurring at the worksite, or to an employee, which can create the risk of significant disruption in the performance of the workgroup.
2. Provide CISD services to one or more employees, co-workers, supervisors, and family members, when appropriate, within 24 – 48 hours, of the request or incident. CISD shall be available 7 days a week, including post CISD follow up and referral coordination.

**f. Management Information Reports**

Contractor shall:

1. Provide on a quarterly basis, reports to aid management in evaluating the effectiveness of the EAP as an Employee Benefit and a Management tool. Reports are to include the following:
  - Quarterly, YTD and annual program utilization including:
    - the number of unique callers to the EAP line (or to the EAP office location)
    - the total number of referrals including break down by type of case
    - the total number of face-to-face counseling visits,
    - the number of telephone assessments,
    - the number and type of EAP cases resolved within the EAP,
    - the number and type of EAP callers referred directly to Behavioral Health treatment under their medical plan benefits,
    - the total number and title of training sessions provided and attendance,
    - the total number of CISD hours or sessions provided,
    - the total number and type of web-hits
  - Total number of EAP sessions given during the period
  - Client breakdown by primary problem, including table and change since last period
  - Client breakdown by age, group, and sex, including change since last period
  - Client breakdown by referral type, including change since last period
  - Supervisory referral, breakdown by problem type, including change since last period
  - Client breakdown by agency
  - Status of closed cases
  - Promotional activities
  - CISD's performed during the reporting period.

2. Contractor shall additionally provide the following:
  - Quarterly program summary showing number of new cases
  - Annual program summary letter and promotion plan for the upcoming year

**g. Records Retention and Audit**

Contractor shall:

1. Maintain an individual chart for each referral for whom assessment is provided to employee and/or employee's family. The chart shall include but not be limited to the following:
  - Employee face sheet documentation for the type of problem identified, nature of the referral, demographic and departmental information on the participating employee
  - Assessment and clinical evaluation of client status and treatment needs
  - Summary of referral action including prognosis
  - Consent to refer form
  - All charts shall have a unique means of identification
2. Maintain written policies and procedure in the program office available for County review to include at least the following:
  - Specific goals and measurable objectives supportive of the program's stated philosophy
  - Referral procedures and resources
  - Program activities, goals, and objectives including hours and locations of services
  - Procedures for dealing with special needs of non-English speaking or disabled clients
  - Job descriptions for all staff positions
  - Current organizational chart showing all staff and positions
  - Follow up procedures
  - Procedures for internal evaluation and record review
  - Emergency Medical procedure

**h. Notification of Death and Special Incidents**

Contractor shall:

1. Notify the County of the death of any person serviced under the Contract including written notification.
2. Notify the County within twenty-four hours when becoming aware of any occurrence of a serious nature which may expose the County to liability, including, but not limited to, Accident, injury, negligence, or loss or damage to County property in possession of the Offeror.

**i. Other**

Contractor Shall:

1. Assist the County in containing or reducing the cost of benefits without affecting the quality of care provided by:
  - Consulting with Employee Benefits personnel on methods by which the EAP contractor identifies cost effective substance abuse and mental health treatments within the medical plan network.
  - Easing members into behavioral health benefits in order to resolve issues before they require treatment that is more extensive.
  - Using self-help groups appropriately as an integral part of treatment planning where appropriate.



2. Publicize the Contractor's participation in Substance Abuse PPO's which provide treatment through existing programs at reduced fees, and communicate these discounted rates to County health plans when applicable.
3. Encourage outpatient treatment whenever appropriate. We do not refer directly to Intensive Outpatient Programs (IOP). Typically, if care beyond the scope of EAP is needed, we refer them to their behavioral health benefit to identify the best options for care.
4. Assist in the substance abuse education program. Program objectives would include:
  - Inform employees
  - Furnish information to supervisors on how to deal with employees experiencing performance problems as a result of alcohol and/or drug abuse.
  - Provide information regarding drug/alcohol abuse for new employee orientation when requested.
  - Contribute articles regarding drug and/or alcohol abuse for County publications, where appropriate.
  - Assist Human Resource Services and/or individual County agencies in the development and presentation of a supervisory training program on alcohol and substance abuse.
5. Promote a positive workforce environment by providing the following:
  - Employee Orientation
  - Drug-Free Workplace
  - Stress Management
  - Time Management
  - Workplace Violence
  - Cultural Diversity
  - Health Promotion
6. Provide a broad array of preventive-focused services:
  - Web-based educational materials
  - Weight loss programs
  - Smoking-cessation programs
  - Guidance to community and self-help resources
7. Develop work/life services that help the County address strategic issues:
  - Productivity
  - Recruitment
  - Retention
  - Employee commitment
8. Serve as the "Trusted Advisor" to the County in term of the following:
  - Benefits modification
  - Necessary training interventions
  - Program offerings
  - Specialized interventions for problems areas
9. Provide a website for participants to obtain articles and information regarding relevant EAP topics.

**ATTACHMENT B**  
**Cost & Compensation**

**1. Compensation**

County agrees to compensate the Contractor per firm fixed price contract as set forth below. Contractor agrees to accept the same as full Compensation for performing all services and furnishing all staffing and materials called for; and for risks connected with the services; and for performance by Contractor of all its duties and obligations hereunder.

**2. Payment Schedule**

Payment for the Employee Assistance Program, identified herein, will be issued by the County based on the covered volume as provided by the County to the Contractor annually in January. All payments are made in arrears. Payment will be made on or before the end of each month, representing payment for services provided during the current month.

**3. Firm Pricing Structure:** Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to the County during the Term of the Contract not otherwise specified and provided for within this Contract.

**4. Contractor's Expense:** The Contractor will be responsible for all costs related to photocopying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under the Contract. The County will not provide free parking for any service provided in conjunction with the Contract, including services provided in the County Civic Center.

**Total Annual Cost for a six-visit program:** Total cost per year is based on providing all services outlined in the Attachment A – Scope of Work. Any services from the Scope of the Work and/or Additional Services not included in the total fixed annual cost are outlined in the below chart.

The total fixed cost for Year 1, Year 2, and Year 3

Year 1: \$1.04 PEPM; Year 2: \$1.18 PEPM; Year 3: \$1.32 PEPM

The total fixed cost for option Year 4

\$1.37 PEPM

The total fixed cost for option Year 5

\$1.42 PEPM

**Additional Services not Included in Total Fixed Annual Cost**

<b>Service</b>	<b>Unit</b>	<b>Price for Year 1 - 3</b>	<b>Price for Year 4</b>	<b>Price for Year 5</b>
CISD – services outside unlimited benefit; 10 hours per incident	Each	Standard outside of unlimited benefit: \$285 per hour plus travel; Immediate response time in less than two hours: \$385 per hour plus travel	Standard outside of unlimited benefit: \$285 per hour plus travel; Immediate response time in less than two hours: \$385 per hour plus travel	Standard outside of unlimited benefit: \$285 per hour plus travel; Immediate response time in less than two hours: \$385 per hour plus travel
Cancellation fees	Each	Crisis response or reductions in force: Failure to provide 48-hour notice of cancellation of services listed above which are subject to the hourly rate will result in a charge of \$440 per incident.  Trainings: Failure to provide six business days’ notice of cancellation of a previously scheduled training program will result in a charge of \$375 per hour.	Crisis response or reductions in force: Failure to provide 48-hour notice of cancellation of services listed above which are subject to the hourly rate will result in a charge of \$440 per incident.  Trainings: Failure to provide six business days’ notice of cancellation of a previously scheduled training program will result in a charge of \$375 per hour.	Crisis response or reductions in force: Failure to provide 48-hour notice of cancellation of services listed above which are subject to the hourly rate will result in a charge of \$440 per incident.  Trainings: Failure to provide six business days’ notice of cancellation of a previously scheduled training program will result in a charge of \$375 per hour.
Drug-Free workplace services	Each	Substance use case management by a substance use disorder professional	Substance use case management by a substance use disorder professional	Substance use case management by a substance use disorder professional

		and/or Department of Transportation regulation compliance - \$750 per case	and/or Department of Transportation regulation compliance - \$750 per case	and/or Department of Transportation regulation compliance - \$750 per case
Department of Transportation training	Each	DOT Supervisor Training - 2 hours at \$800  DOT Employee Training - 1 hour at \$400	DOT Supervisor Training - 2 hours at \$800  DOT Employee Training - 1 hour at \$400	DOT Supervisor Training - 2 hours at \$800  DOT Employee Training - 1 hour at \$400
Well-being coaching	PEPM	\$0.22	\$0.22	\$0.22
Here4U	Each	\$700 per hourly event	\$700 per hourly event	\$700 per hourly event
Onsite EAP	Hourly	\$195 per hour	\$195 per hour	\$195 per hour

**5. Payment Terms:** Premium payments will be based upon the number of active subscribers, and associated coverage levels and rates as provided by the County to the Contractor on January of each year. Payment for the fixed amount will be made on or before the 30<sup>th</sup> day of each month, representing payment for services provided in the current month, i.e. payment for the month of January will be paid by January 30. Variable amounts shall be paid when invoiced.

The County’s Program Manager at HRS/Employee Benefits Division in conjunction with Employee Benefits Finance is responsible for approval of invoices and subsequent submittal of invoices to the County Auditor-Controller for payment processing.

**ATTACHMENT C**  
**Implementation Plan/Project Schedule**

Implementation Plan for County of Orange				
01/01/2025				
<b>1</b>	<b>Planning for Program Success</b>	<b>Comments</b>	<b>Responsible Party</b>	<b>Duration in Days</b>
1.1	Notification of contract award		Account Executive	1
1.2	Establish website information for User ID and Password		Account Executive	10
1.3	Designate RFL Implementation Team		Account Executive / Implementation Specialist	8
1.4	Initial Implementation Meeting - review program needs & critical success factors		Account Executive / Implementation Specialist	1
1.5	Meetings or conference calls as agreed upon to discuss implementation progress		Implementation Specialist	Weekly Through Implementation Phase
1.6	Final wrap up implementation meeting with <b>County of Orange</b> and RFL		Account Executive / Implementation Specialist	1
1.7	Final wrap up implementation meeting with RFL Implementation Team		Account Executive / Implementation Specialist	1
<b>2</b>	<b>Communication Campaign</b>	<b>Action Follow-up</b>	<b>Responsible Party</b>	<b>Duration</b>
2.1	<b>County of Orange</b> reviews draft copy of employee notification materials	if needed	Account Executive / Implementation Specialist	10
2.2	Draft copy of employee notification with approval and/or modifications returned to RFL	if needed	Account Executive / Implementation Specialist	10
2.3	Order materials for production and		Specialist	15

	distribution			
<b>3</b>	<b>EAP Policies and Program Definitions</b>	<b>Action Follow-up</b>	<b>Responsible Party</b>	<b>Duration</b>
3.1	Management referrals		Account Executive	10
	- Who can make referral (Name or Level)			
	- Feedback expectations (Frequency)			
	- Determine if SAP/DOT regulations apply			
	- Determine DER			
3.2	CISD History		Account Executive	10
3.3	Harassment policies		Account Executive	10
3.4	Drug and alcohol policies		Account Executive	10
3.5	Violence in the workplace policies		Account Executive	10
3.6	Disability protocols		Account Executive	10
3.7	Disciplinary process		Account Executive	10
<b>4</b>	<b>Integration Planning and Development</b>	<b>Action Follow-up</b>	<b>Responsible Party</b>	<b>Duration</b>
4.1	Identification and discussion of key contacts at <b>County of Orange</b> for development of vendor integration and cross referrals		Account Executive	10
<b>5</b>	<b>Reporting and Structure</b>	<b>Action Follow-up</b>	<b>Responsible Party</b>	<b>Duration</b>
5.1	Identification of key contact at <b>County of Orange</b> for reports.		Account Executive	10
5.2	Requirements identified for frequency of reporting. (annual/quarterly)		Account Executive / Implementation Specialist	5

<b>6</b>	<b>User Resources</b>	<b>Action Follow-up</b>	<b>Responsible Party</b>	<b>Duration</b>
6.1	Verify and test User IDs and Passwords		Implementation Specialist	10
6.2	Online demonstration of web resources		Account Executive	20
<b>7</b>	<b>Training</b>	<b>Action Follow-up</b>	<b>Responsible Party</b>	<b>Duration</b>
7.1	Training for Member Advocates, Management Resource Consultants and/or other impacted centers.		Operations Trainer	30
7.2	Plan Manager and Employee training campaign.		Account Executive	30
7.3	Executive briefings held		Account Executive	30
7.4	Employee/supervisor EAP orientations held		Account Executive	30
<b>8</b>	<b>Legal</b>	<b>Action Follow-up</b>	<b>Responsible Party</b>	<b>Duration</b>
8.1	Execute contract		Account Executive	45
8.2	Monitor need for changes and process		Account Executive	45

**ATTACHMENT D**  
**Staffing Plan**

**1. Primary Staff/Key Personnel:** to perform Contract duties

Name	Classification	Experience/Qualifications
Gigi Kaney	Account Manager	Over 21 years of EAP experience and 18 years of HR/Management experience

**2. Alternate Staff/Key Personnel:** for use only if primary is not available

Name	Classification	Experience/Qualifications
Cheryl Rhoads	Account Manager	32 Years HR/EAP experience; Bachelor’s degree in Behavioral Science; Master’s degree in Counseling Psychology; Certified Employee Assistance Professional (CEAP); and Certified Substance Abuse Professional (SAP)
Peggy Wagner	President/Director of California Services	35 years EAP/Behavioral Health experience; Bachelor’s degree in Social Work; Master’s degree in Social; Certified Employee Assistance Professional (CEAP); Licensed Clinical Social Worker (LCSW)

Substitution or addition of Contractor’s key personnel in any given category or classification shall be allowed only with prior written approval of the County’s Program Manager.

The Contractor may reserve the right to involve other personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the services required. Assignment of additional key personnel shall be subject to County approval in writing. In addition to the rights set forth in Article 23 regarding Contractor’s Account Manager removal, County expressly retain the right to have any of the Contractor personnel prohibited from performing services to County under this Contract. Contractor shall effectuate the removal of the specified Contractor personnel from performing services to County under this Contract within three (3) business days of notification by Program Manager. County shall notify the Contractor in writing of the specific personnel to be prohibited from providing services to County under this Contract. County is not required to provide any reason, rational or factual information if it elects to request any specific Contractor personnel to be prohibited from performing services under this Contract. Contractor’s failure to comply with the County Program Manager’s decision and remove the specified personnel shall be deemed a material breach of this Contract and County may immediately terminate the Contract without penalty.

**3. Sub-contractor(s):** In accordance with Article 11 “Assignment or Sub-Contracting”, listed below are Sub-contractor(s) anticipated by Contractor to perform services specified in Attachment A - Scope of Work.

Company Name	Staff Name
My Secure Advantage, Inc.	Designated staffing not involved. Warm transfer used for services. Your Account Manager Gigi Kaney will address any account-specific issues as your Single Point of Contact.
CLC, Inc.	Designated staffing not involved. Warm transfer used for services. Your Account Manager Gigi Kaney will address any account-specific issues as your Single Point of Contact.
R3 Continuum	Designated staffing not involved. Warm transfer used for services. Your Account Manager Gigi Kaney will address any account-specific issues as your Single Point of Contact.



**ATTACHMENT E**  
**Performance Guarantees**

Following the end of each quarter the County shall complete the **Account Management Score Card** (See Attachment F) and submit to Contractor. At the end of the term, Contractor will calculate the composite score in each performance assessment category by averaging the scores for the four (4) quarters of the term. The assessments of each of the performance assessment categories will be weighted equally. The Account Management Commitment will be deemed as fulfilled if the average of the Composite Scores in each category (“Account Management Composite Score”) is equal to or greater than the Account Management Composite Score indicated on the Account Management Score Card.

Contractor shall report to the County on a quarterly basis within 45 days after close of the reporting period. Penalties will be paid annually within 60 days after 4th quarter reporting.

Percentage at Risk	Percentage at Risk
<p><b>Standard Timely Production of Monthly Newsletter</b> Contractor guarantees that monthly newsletters will be produced and provided to the County’s Program Manager for electronic distribution and/or posting on the County’s EAP website by the 7th of each month.</p>	<p>Percent at risk per quarter: <b>0.50%</b></p>
<p><b>Standard Timely Production of Management Reports</b> Contractor guarantees that EAP usage reports shall be provided to County Management within 45 calendar days after the end of a quarterly reporting period. This standard shall be measured and reported on a quarterly basis to County’s Program Manager.</p>	<p>Percent at risk per quarter: <b>1.00%</b></p>
<p><b>Standard Frequency of Account Management Meetings to Review Results</b> Contractor guarantees it will meet with County as needed and requested through the implementation process and a minimum of quarterly thereafter. This standard shall be measured and reported quarterly to County’s Pro Manager.</p>	<p>Percent at risk per quarter: <b>0.50%</b></p>
<p><b>Website Availability</b> Contractor that guarantees that member websites are available 99.0% of the time, as measured by total downtime, exclusive of scheduled downtime.</p>	<p>Percent at risk per quarter: <b>1.00%</b></p>
<p><b>Phone Access</b> Contractor guarantees abandonment rate of less than or equal to 3%.</p>	<p>Percent at risk per quarter: <b>1.00%</b></p>
<p><b>Phone Access</b> Contractor guarantees an average speed of answer of 30 seconds or less</p>	<p>Percent at risk per quarter: <b>1.00%</b></p>
<p><b>Standard Wait Time</b> Contractor guarantees the client wait times as noted below. This standard shall be measured and reported quarterly to County's Program Manager.</p> <ul style="list-style-type: none"> <li>• Upon assessment, referral appointment will be offered/made within 2 business days for urgent issues, &gt;85% of the County’s members are offered the name and contact information of a provider who indicates they have availability</li> </ul>	<p>Percent at risk per quarter: <b>1.00%</b></p>

<p>(virtually or face to face) through our placement process. The first available provider appointment is given.</p> <ul style="list-style-type: none"> <li>• Within 5 business days, 85% of the County’s members are offered the name and contact information of a provider who indicates they have availability (virtually or face to face) through our placement process. The first available provider appointment is given.</li> </ul>	<p>Percent at risk per quarter: <b>1.00%</b></p>
<p><b>Utilization</b> Contractor guarantees utilization for Coaching and Counseling session will be 5% or greater (excludes non-coaching, non-counseling services such as work-life services, legal/financial services, digital assessments and tools</p>	<p>Percent at risk per quarter: <b>1.00%</b></p>
<p><b>Member Satisfaction</b> Contractor shall conduct a member satisfaction survey on a 5-point scale with 5 being the highest. Contractor guarantees 85% or higher of members responding to member satisfaction survey will rate their experience as 4 or greater. If the survey return rate is less than 10%, then book of business satisfaction rates will be used.</p>	<p>Percent at risk per quarter: <b>1.00%</b></p>
<p><b>Account Management Satisfaction (See Attachment F)</b> An account management satisfaction composite score of “3” or better on a “1-5” scoring system on based on the Account Management Score Card based on four (4) quarterly assessments.</p>	<p>Percent at risk per year: <b>1.00%</b></p>

**ATTACHMENT F**  
**Account Management Score Card**

**Rating Methodology:**

- 5 = Completely Satisfied
- 4 = Very Satisfied
- 3 = Satisfied
- 2 = Somewhat Satisfied
- 1 = Dissatisfied

Client/Company Name: County of Orange  
 Completed By (please print): \_\_\_\_\_  
 Client Signature \_\_\_\_\_  
 Date completed: \_\_\_\_\_  
 Telephone #: \_\_\_\_\_

At the end of each quarterly period, Contractor will forward Account Management Score Card to County. County will complete the box with the score that most closely reflects the level of satisfaction with the local and main office account management teams with respect to the following service categories. A separate quarterly score card will be completed, signed and dated each quarter.

<b>Measurable Need</b>	<b>1<sup>st</sup> Q</b>	<b>2<sup>nd</sup> Q</b>	<b>3<sup>rd</sup> Q</b>	<b>4<sup>th</sup> Q</b>	<b>Composite to be completed by PG Unit</b>
1. Provides County with timely notification within one business day of issues impacting Plan and/or Participants.					
2. Responds to Participant issues & questions in a timely, comprehensive manner within 24 hours to acknowledge and 72 hours to provide data or status update.					
3. Develops, follows through on action plans; effective coordination to resolve open issues.					
4. Is accessible and attends scheduled meetings.					
5. Delivers agreed upon reports and communication of Contractor results on time.					
Account Management Composite Score (All Categories)	N/A	N/A	N/A	N/A	

Fill in for each quarterly period:

Date Sent to Client:     \_\_\_/\_\_\_/\_\_\_  
 Date Returned by Client:     \_\_\_/\_\_\_/\_\_\_

Following the end of the Term and receipt of the fourth (4<sup>th</sup>) quarterly survey from the County, Contractor will calculate the Composite Score in each performance assessment category by averaging the scores for the four (4) quarters of the Term. The assessments of each of the performance assessment categories will be weighted equally. The Account Management Commitment will be deemed as fulfilled if the average of the Composite Scores in each category (“Account Management Composite Score”) is equal to or greater than the Account Management Composite Score indicated on Attachment F.

**ATTACHMENT G**  
**Business Associate Contract**

**A. GENERAL PROVISIONS AND RECITALS**

1. The Parties agree that the terms used, but not otherwise defined below in Paragraph B, shall have the same meaning given to such terms under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and their implementing regulations at 45 CFR Parts 160 and 164 (“the 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 Contract MA-017-202405-KA 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 Contract MA-017-202405-KA, some of which may constitute Protected Health Information (“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 Contract MA-017-202405-KA.

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 Contract MA-017-202405-KA 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 a covered entity (County). Contractor agrees therefore to be in compliance at all times with the terms of this Business Associate Contract and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Contract MA-017-202405-KA.

**B. DEFINITIONS**

1. “Administrative Safeguards” are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of Contractor’s workforce in relation to the protection of that information.

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

a. Breach excludes:

i. Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of Contractor or County, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.

- ii. Any inadvertent disclosure by a person who is authorized to access PHI at Contractor to another person authorized to access PHI at the Contractor, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.
  - iii. A disclosure of PHI where Contractor or County has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
- b. Except as provided in paragraph (a) of this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach unless Contractor demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:
- i. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
  - ii. The unauthorized person who used the PHI or to whom the disclosure was made;
  - iii. Whether the PHI was actually acquired or viewed; and
  - iv. The extent to which the risk to the PHI has been mitigated.

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

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

5. “Disclosure” shall have the meaning given to such term under the HIPAA regulations in 45 CFR §160.103.

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

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

8. “Physical Safeguards” are physical measures, policies, and procedures to protect Contractor’s electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

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

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

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

CFR § 164.103.

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

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

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

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

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

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

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

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

1. Contractor agrees not to use or further disclose PHI County discloses to Contractor other than as permitted or required by this Business Associate Contract or as required by law.

2. Contractor agrees to use appropriate safeguards, as provided for in this Business Associate Contract and the Contract MA-017-202405-KA, to prevent use or disclosure of PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County other than as provided for by this Business Associate Contract.

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

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

5. Contractor agrees to report to County immediately any Use or Disclosure of PHI not provided for by this Business Associate Contract of which Contractor becomes aware. Contractor must report Breaches of Unsecured PHI in accordance with Paragraph E below and as required by 45 CFR § 164.410.

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

7. Contractor agrees to provide access to the Individual, following a request by County or the Individual,

to PHI in a Designated Record Set in conjunction with requirements under 45 CFR § 164.524

8. Contractor agrees to make any amendment(s) to PHI in a Designated Record Set that County or the Individual directs or agrees to pursuant to 45 CFR § 164.526 at the request of County or an Individual, within the applicable time frames listed in 45 CFR § 164.526

9. Contractor agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of, County available to the Secretary in a time and manner as determined by County or as designated by the Secretary for purposes of the Secretary determining County's compliance with the HIPAA Privacy Rule.

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

11. Contractor agrees to provide an Individual, as directed by County or Individual, that information collected in accordance with the Contract MA-000-CONTRACT NUMBER in order to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

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

13. Contractor shall work with County upon notification by Contractor to County of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph B.2.a above.

#### **D. SECURITY RULE**

1. Contractor shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR § 164.308, § 164.310, § 164.312, and § 164.316 with respect to electronic PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County. Contractor shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

2. Contractor shall ensure that any subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of Contractor agree through a contract with Contractor to restrictions and requirements that are no less protective than those contained in this Paragraph D of this Business Associate Contract.

3. Contractor shall, within ten (10) business days, report to County any Security Incident of which it becomes aware. Contractor shall report Breaches of Unsecured PHI in accordance with Paragraph E below and as required by 45 CFR § 164.410.

#### **E. BREACH DISCOVERY AND NOTIFICATION**

1. Following the discovery of a Breach of Unsecured PHI that affects County's PHI, Contractor shall notify County of such Breach, however both Parties agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR § 164.412.

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

b. Contractor shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other agent of Contractor,

as determined by federal common law of agency.

2. Contractor shall provide the notification of the Breach within ten (10) business days to the County Privacy Officer at:

<b>CEO   OCIT   ENTERPRISE PRIVACY &amp; CYBERSECURITY</b>	<b>CEO   OCIT   ENTERPRISE PRIVACY &amp; CYBERSECURITY</b>
<b>Linda Le, CHPC, CHC, CHP County Privacy Officer</b> 721 S. Parker St., Suite 200 Orange, CA 92868  Office: (714) 834-4082 Email: Linda.Le@ocit.ocgov.com	<b>Andrew Alipanah, MBA, CISSP Chief Information Security Officer</b> 721 S. Parker St., Suite 200 Orange, CA 92868  Office: (714) 567-7611 Email: Andrew.Alipanah@ocit.ocgov.com

a. Contractor’s notification may be oral but shall be followed by written notification within ten (10) business days of the oral notification.

3. Contractor’s notification shall include, to the extent possible:

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

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

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

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

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

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

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

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

5. In the event that Contractor is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, Contractor shall have the burden of demonstrating that Contractor made all notifications to County consistent with this Paragraph E and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.



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

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

8. Upon request, Contractor shall continue to provide all additional pertinent information about the Breach to County as it may become available,. Contractor shall also respond in good faith to any reasonable requests for further information, or follow up information after report to County, when such request is made by County.

9. Contractor shall bear expense or other costs associated with the Breach and shall reimburse County for expenses County incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, and documentation.

## **F. PERMITTED USES AND DISCLOSURES BY CONTRACTOR**

1. Contractor may use or further disclose PHI County discloses to Contractor as necessary to perform functions, activities, or services for, or on behalf of, County as specified in the Contract MA-017-202405-KA, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by County except for the specific Uses and Disclosures set forth below.

a. Contractor may use PHI County discloses to Contractor, if necessary, for the proper management and administration of Contractor.

b. Contractor may disclose PHI County discloses to Contractor for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor, if

(1) The Disclosure is required by law; or

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

c. Contractor may use or further disclose PHI County discloses to Contractor to perform Data Aggregation services.

The provisions of this Agreement notwithstanding, Contractor is permitted to de-identify Protected Health Information, provided that it does so in accordance with HIPAA de-identification rules. De-identified information does not constitute Protected Health Information, and may be used and disclosed by Contractor for its own purposes, including, without limitation, for purposes of developing comparative databases, performing statistical analysis and research, and improving the quality of Contractor's products and services.

2. Contractor may use PHI County discloses to Contractor, if necessary, to carry out legal responsibilities of Contractor.

3. Contractor may use and disclose PHI County discloses to Contractor consistent with the minimum necessary policies and procedures of County.

4. Contractor may use or disclose PHI County discloses to Contractor as required by law.

## **G. OBLIGATIONS OF COUNTY**

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

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

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

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

## **H. BUSINESS ASSOCIATE TERMINATION**

1. Upon County's knowledge of a material breach or violation by Contractor of the requirements of this Business Associate Contract, County shall:

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

b. Immediately terminate the Contract MA-017-202405-KA, if Contractor is unwilling or unable to cure the material breach or end the violation within thirty (30) days, provided termination of the Contract MA-017-202405-KA is feasible.

2. termination of the Contract MA-017-202405-KA, Contractor shall either destroy or return to County all PHI Contractor received from County or Contractor created, maintained, or received on behalf of County in conformity with the HIPAA Privacy Rule.

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

b. Contractor shall retain no copies of the PHI.

c. In the event that Contractor determines that returning or destroying the PHI is not feasible. Contractor shall extend the protections of this Business Associate Contract to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for as long as Contractor maintains such PHI. The Contractor states that it is essential for Protected Health Information to be maintained after the expiration of the Services Agreement for regulatory and other business reasons.

3. The obligations of this Business Associate Contract shall survive the termination of the Contract MA-017-202405-KA.

**ATTACHMENT H**  
**County Of Orange Information Technology Security Provisions**

County of Orange Information Technology Security Provisions

All Contractors with access to County data and/or systems shall establish and maintain policies, procedures, and technical, physical, and administrative safeguards designed to (i) ensure the confidentiality, integrity, and availability of all County data and any other confidential information that the Contractor receives, stores, maintains, processes, transmits, or otherwise accesses in connection with the provision of the contracted services, (ii) protect against any threats or hazards to the security or integrity of County data, systems, or other confidential information, (iii) protect against unauthorized access, use, or disclosure of personal or County confidential information, (iv) maintain reasonable procedures to prevent, detect, respond, and provide notification to the County regarding any internal or external security breaches, (v) ensure the return or appropriate disposal of personal information or other confidential information upon contract conclusion (or per retention standards set forth in the contract), and (vi) ensure that any subcontractor(s)/agent(s) that receives, stores, maintains, processes, transmits, or otherwise accesses County data is in compliance with statements and the provisions of statements and services herein.

1. This County of Orange Information Technology Security Provisions document provides a high-level guide for contractors to understand the resiliency and cybersecurity expectations of the County. The County of Orange Security Guidelines follow the latest National Institute of Standards and Technology (NIST) 800-53 framework to ensure the highest levels of operational resiliency and cybersecurity. Contractor, Contractor personnel, Contractor’s subcontractors, any person performing work on behalf of Contractor, and all other agents and representatives of Contractor will follow the latest National Institute of Standards and Technology (NIST) 800-53 guidelines.

Contractor shall use industry best practices and methods with regard to confidentiality, integrity, availability, and the prevention, detection, response, and elimination of threat, by all appropriate means, of fraud, abuse, and other inappropriate or unauthorized access to County data accessed in the performance of Services under this Contract.

2. The Contractor shall implement and maintain a written information security program that contains reasonable and appropriate security measures designed to safeguard the confidentiality, integrity, availability, and resiliency of County data and/or system(s). The Contractor shall review and update its information security program in accordance with contractual, legal, and regulatory requirements. Contractor shall provide to County, not to exceed once annually a copy of the organization’s information security program and/or policies.
3. Information Access: Contractor shall use appropriate safeguards and security measures to ensure the confidentiality and security of all County data.

County may require all Contractor personnel, subcontractors, and affiliates to perform work under this Contract to execute a confidentiality and non-disclosure agreement concerning access protection and data security. Contractor shall issue, any necessary information-access mechanisms, including access IDs and passwords, and in no event shall Contractor permit any such mechanisms to be shared or used by other than the individual Contractor personnel, subcontractor, or affiliate to whom issued. Contractor shall provide each Contractor personnel, subcontractors, or affiliates with only such level of access as is required for such individual to perform his or her assigned tasks and functions.

Throughout the Contract term, upon request from County but at least once each calendar year, Contractor shall provide County with an accurate, up-to-date list of those Contractor personnel and/or subcontractor personnel having access to County systems and/or County data. County reserves the right to require the removal and replacement of Contractor personnel at the County’s sole discretion. Removal and replacement

shall be performed within 14 calendar days of notification by the County.

4. **Data Security Requirements:** Without limiting Contractor’s obligation of confidentiality as further described in this Contract, Contractor must establish, maintain, and enforce a data privacy program and an information and cybersecurity program, including safety, physical, and technical security and resiliency policies and procedures, that comply with the requirements set forth in this Contract and, to the extent such programs are consistent with and not less protective than the requirements set forth in this Contract and are at least equal to applicable best industry practices and standards (NIST 800-53).

Contractor also shall provide technical and organizational safeguards against accidental, unlawful, or unauthorized access or use, destruction, loss, alteration, disclosure, transfer, commingling, or processing of such information that ensure a level of security appropriate to the risks presented by the processing of County Data,

Contractor personnel and/or subcontractor personnel and affiliates may use County personal and confidential information only as permitted in this Contract. No Contractor personnel and/or subcontractor personnel or affiliate shall duplicate, disseminate, market, sell, or disclose County personal and confidential information except as allowed in this Contract. Contractor personnel and/or subcontractor personnel or affiliate who access, disclose, market, sell, or use County personal and confidential information in a manner or for a purpose not authorized by this Contract may be subject to civil and criminal sanctions contained in applicable federal and state statutes.

Contractor shall take all reasonable measures to secure and defend all locations, equipment, systems, and other materials and facilities employed in connection with the Services against hackers and others who may seek, without authorization, to disrupt, damage, modify, access, or otherwise use Contractor systems or the information found therein; and prevent County data from being commingled with or contaminated by the data of other customers or their users of the Services and unauthorized access to any of County data.

Contractor shall also continuously monitor its systems for potential areas where security could be breached. In no case shall the safeguards of Contractor’s data privacy and information and cybersecurity program be less stringent than the safeguards applicable to the best industry practices and standards (NIST 800-53). Without limiting any other security risk assessment rights of County, County shall have the right to review Contractor’s data privacy and information and cybersecurity program prior to commencement of Services and from time to time during the term of this Contract, not to exceed once annually.

All data belongs to the County and shall be destroyed or returned at the end of the contract via digital wiping, degaussing, or physical shredding as directed by County.

5. **General Security Standards:** Contractor will be solely responsible for the information technology infrastructure, including all computers, software, databases, electronic systems (including database management systems, email systems, auditing, and monitoring systems) and networks used by or for Contractor (“Contractor Systems”) County data through the Contractor Systems.

- a) **Contractor System(s) and Security:** At all times during the contract term, Contractor shall maintain a level of security with regard to the Contractor Systems, that in all events is at least as secure as the levels of security that are common and prevalent in the industry and in accordance with industry best practices (NIST 800-53). Contractor shall maintain all appropriate administrative, physical, technical, and procedural safeguards to secure County data from data breach, protect County data and the Services from loss, corruption, unauthorized disclosure, and from hacks, and the introduction of viruses, disabling devices, malware, and other forms of malicious and inadvertent acts that can disrupt County’s access and use of County data and the Services.

Contractors who are not provided with a County email address, but need to transmit County data will be required to maintain and transmit County data in accordance with this Agreement.

- 6. **Security Failures:** Any failure by the Contractor to meet the requirements of this Contract with respect to the security of County data, including any related backup, disaster recovery, or other policies, practices or procedures, and any breach or violation by Contractor or its subcontractors or affiliates, or their employees or agents, of any of the foregoing, shall be deemed a material breach of this Contract and may result in termination and reimbursement to County of any fees prepaid by County prorated to the date of such termination. The remedy provided in this paragraph shall not be exclusive and is in addition to any other rights and remedies provided by law or under the Contract.
  
- 7. **Security Breach Notification:** In the event Contractor becomes aware of any act, error or omission, negligence, misconduct, or security incident including unsecure or improper data disposal, theft, loss, unauthorized use and disclosure or access, that compromises the security, availability, confidentiality, and/or integrity of County data or the physical, technical, administrative, or organizational safeguards required under this Contract that relate to the security, availability, confidentiality, and/or integrity of County data, Contractor shall, at its own expense, (1) promptly (or within 10 days of potential or suspected breach), notify the County’s Chief Information Security Officer and County Privacy Officer of such occurrence; (2) perform a root cause analysis of the actual, potential, or suspected breach; (3) provide a remediation plan that is acceptable to County within 30 days of verified breach, to address the occurrence of the breach and prevent any further incidents; (4) conduct a forensic investigation to determine what systems, data, and information have been affected by such event; and (5) perform or take any other actions required to comply with applicable law as a result of the occurrence.

County shall make the final decision on notifying County officials, entities, employees, service providers, and/or the general public of such occurrence, and the implementation of the remediation plan. If notification to particular persons is required under any law, then notifications to all persons and entities who are affected by the same event shall be considered legally required. Contractor shall reimburse County for notification and directly related costs incurred by County arising out of or in connection with any such occurrence due to Contractor’s acts, errors or omissions, negligence, and/or misconduct resulting in a requirement for legally required notifications.

In the case of a breach, Contractor shall provide third-party credit and identity monitoring services to each of the affected individuals for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twelve (12) months following the date of notification to such individuals.

Contractor shall indemnify, defend with counsel approved in writing by County, and hold County and County Indemnitees harmless from and against any and all claims, including reasonable attorney’s fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from County in connection with the occurrence.

Notification shall be sent to:

<b>CEO   OCIT   ENTERPRISE PRIVACY &amp; CYBERSECURITY</b>	<b>CEO   OCIT   ENTERPRISE PRIVACY &amp; CYBERSECURITY</b>
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<p><b>Linda Le, CHPC, CHC, CHP</b>  <b>County Privacy Officer</b>                  721 S. Parker St., Suite 200                  Orange, CA 92868</p> <p>Office: (714) 834-4082                  Email: Linda.Le@ocit.ocgov.com</p>	<p><b>Andrew Alipanah, MBA, CISSP</b>  <b>Chief Information Security Officer</b>                  721 S. Parker St., Suite 200                  Orange, CA 92868</p> <p>Office: (714) 567-7611                  Email: Andrew.Alipanah@ocit.ocgov.com</p>
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8. Security Risk Assessment: Contractor shall maintain complete and accurate records relating to its system and Organization Controls (SOC) Type II audits or equivalent’s data protection practices, internal and external audits, and the security of any of County-hosted content, including any confidentiality, integrity, and availability operations (data hosting, backup, disaster recovery, external dependencies management, vulnerability testing, penetration testing, patching, or other related policies, practices, standards, or procedures).

Contractor shall provide upon customer's request and not to exceed once annually, to County of any internal/external security audit or assessment performed on Contractor’s operations, information and cybersecurity program, disaster recovery plan, and prevention, detection, or response protocols that are related to hosted County content. Contractor will provide a copy of the audit report to County within thirty (30) days after Contractor’s receipt of request for such report(s). Contractor shall implement any required safeguards as identified by any audit of Contractor’s data privacy and information/cybersecurity program.

9. Business Continuity and Disaster Recovery (BCDR):

For the purposes of this section, “Recovery Point Objectives” means the maximum age of files (data and system configurations) that must be recovered from backup storage for normal operations to resume if a computer, system, or network goes down as a result of a hardware, program, or communications failure (establishing the data backup schedule and strategy). “Recovery Time Objectives” means the maximum duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a loss of functionality.

The Contractor shall maintain a comprehensive risk management program focused on managing risks to County operations and data, including mitigation of the likelihood and impact of an adverse event occurring that would negatively affect contracted services and operations of the County. Business continuity management will enable the Contractor to identify and minimize disruptive risks and restore and recover hosted County business-critical services and/or data following an adverse event or other major business disruptions. Recovery and timeframes may be impacted when events or disruptions are related to dependencies on third-parties. The Contractor will provide on Recovery Point Objectives and Recovery Time Objectives (as needed)). Any disruption to services of system will be communicated to the County within 4 hours of a declared disaster, and every effort shall be undertaken to restore contracted services, data, operations, security, and functionality. All data and/or systems and technology provided by the Contractor internally and through third-party vendors shall have resiliency and redundancy capabilities to achieve high availability and data recoverability according to agreed upon RPOs and RTOs. Contractor Systems shall be designed, where practical and possible, to ensure continuity of service(s) in the event of a disruption or outage.