

CONTRACT FOR PROVISION OF
MEDICAL STAFFING SERVICES

BETWEEN

COUNTY OF ORANGE

AND

TALENT STRATEGIES DBA HEALTHCARE TALENT

MAY 7, 2020 THROUGH MAY 6, 2021

THIS CONTRACT entered into this 7th day of May (effective date), is by and between the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and Talent Strategies DBA HealthCare Talent, a California for-profit corporation, (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually as “Party” or collectively as “Parties.” This Contract shall be administered by the Director of the COUNTY’s Health Care Agency or an authorized designee (“ADMINISTRATOR”).

W I T N E S S E T H :

WHEREAS, on February 26, 2020, the County declared a Local Emergency, and the County’s Health Officer declared a Local Health Emergency in response to COVID-19 emergency and outbreak, as necessary for the preservation of public health and safety; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a State of Emergency in the State of California concerning the COVID-19 emergency and outbreak; and

WHEREAS, on March 12, 2020, Governor Gavin Newsom issued Executive Order N-25-20, ordering all California residents to heed any orders and guidance of State and local public health officials, including but not limited to imposition of social distancing measures, to control the spread of COVID-19; and

WHEREAS, on March 18, 2020, the President of the United States proclaimed a national emergency concerning the COVID-19 outbreak; and

WHEREAS, on March 22, 2020, the President of United States declared a major disaster exists in the State of California and ordered Federal assistant to supplement State and local recovery efforts in the areas affected by the COVID-19 pandemic; and

WHEREAS, the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) has issued the Public Assistance Program and Policy Guide, Third Edition, Version 3.1 (Guide) that provides guidance on the availability of federal funding to states and local governments during emergencies pursuant to Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act); and

1 **WHEREAS**, the Guide identifies the services/commodities described herein as an eligible cost
2 during emergencies; and

3 **WHEREAS**, County in need of the services/commodities described herein in order to support its
4 efforts to respond to the COVID-19 pandemic in a manner consistent with the above declarations and
5 authorities, and any continuing executive orders and declarations as part of the on-going emergencies;
6 and

7 **WHEREAS**, Contractor and County are entering into this Contract for Medical Staffing
8 Services under a firm fixed fee Contract; and

9 **WHEREAS**, County solicited Contract for Medical Staffing Services as set forth herein, and
10 Contractor represented that it is qualified to provide Medical Staffing Services to the County as further
11 set forth here; and

12 **WHEREAS**, Contractor agrees to provide Medical Staffing Services to the County as further set
13 forth in Exhibit A; and

14 **WHEREAS**, County agrees to pay Contractor based on the schedule of fees set forth in
15 Compensation/Invoicing, attached hereto as Exhibit A; and

16
17 **NOW, THEREFORE**, the Parties, in consideration of the above recitals, and in consideration of
18 the mutual covenants, benefits and promises contained herein, mutually agree as follows:
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REFERENCED CONTRACT PROVISIONS

Term: May 7, 2020 through May 6, 2021

Maximum Obligation: \$200,000

CONTRACTOR TAX ID Number: 27-3256639

Notices to COUNTY and CONTRACTOR:

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

CONTRACTOR: Talent Strategies DBA Health Care Talent
Contracts
26090 Towne Centre Dr.
Lake Forest, CA 92610

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I. ACRONYMS

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

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4	A. AB 109	Assembly Bill 109, 2011 Public Safety Realignment
5	B. AIDS	Acquired Immune Deficiency Syndrome
6	C. ARRA	American Recovery and Reinvestment Act of 2009
7	D. ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
8	E. ASI	Addiction Severity Index
9	F. ASRS	Alcohol and Drug Programs Reporting System
10	G. BHS	Behavioral Health Services
11	H. CalOMS	California Outcomes Measurement System
12	I. CalWORKs	California Work Opportunity and Responsibility for Kids
13	J. CAP	Corrective Action Plan
14	K. CCC	California Civil Code
15	L. CCR	California Code of Regulations
16	M. CESI	Client Evaluation of Self at Intake
17	N. CEST	Client Evaluation of Self and Treatment
18	O. CFDA	Catalog of Federal Domestic Assistance
19	P. CFR	Code of Federal Regulations
20	Q. CHPP	COUNTY HIPAA Policies and Procedures
21	R. CHS	Correctional Health Services
22	S. COI	Certificate of Insurance
23	T. CPA	Certified Public Accountant
24	U. CSW	Clinical Social Worker
25	V. DHCS	California Department of Health Care Services
26	W. D/MC	Drug/Medi-Cal
27	X. DPFS	Drug Program Fiscal Systems
28	Y. DRS	Designated Record Set
29	Z. EEOC	Equal Employment Opportunity Commission
30	AA. EHR	Electronic Health Records
31	AB. EOC	Equal Opportunity Clause
32	AC. ePHI	Electronic Protected Health Information
33	AD. EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
34	AF. FFS	Fee For Service
35	AG. FSP	Full Service Partnership
36	AH. FTE	Full Time Equivalent
37	AI. GAAP	Generally Accepted Accounting Principles

1	AJ. HCA	County of Orange Health Care Agency
2	AK. HHS	Federal Health and Human Services Agency
3	AL. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
4		Law 104-191
5	AM. HITECH	Health Information Technology for Economic and Clinical Health
6		Act, Public Law 111-005
7	AN. HIV	Human Immunodeficiency Virus
8	AO. HSC	California Health and Safety Code
9	AP. IRIS	Integrated Records and Information System
10	AQ. ITC	Indigent Trauma Care
11	AR. LCSW	Licensed Clinical Social Worker
12	AS. MAT	Medication Assisted Treatment
13	AT. MFT	Marriage and Family Therapist
14	AU. MH	Mental Health
15	AV. MHP	Mental Health Plan
16	AW. MHS	Mental Health Specialist
17	AX. MHSA	Mental Health Services Act
18	AZ. MSN	Medical Safety Net
19	BA. NIH	National Institutes of Health
20	BB. NPI	National Provider Identifier
21	BC. NPPES	National Plan and Provider Enumeration System
22	BD. OCR	Federal Office for Civil Rights
23	BE. OIG	Federal Office of Inspector General
24	BF. OMB	Federal Office of Management and Budget
25	BG. OPM	Federal Office of Personnel Management
26	BH. P&P	Policy and Procedure
27	BI. PA DSS	Payment Application Data Security Standard
28	BJ. PATH	Projects for Assistance in Transition from Homelessness
29	BK. PC	California Penal Code
30	BL. PCI DSS	Payment Card Industry Data Security Standards
31	BM. PCS	Post-Release Community Supervision
32	BN. PHI	Protected Health Information
33	BO. PII	Personally Identifiable Information
34	BP. PRA	California Public Records Act
35	BQ. PSC	Professional Services Contract System
36	BR. SAPTBG	Substance Abuse Prevention and Treatment Block Grant
37	BS. SIR	Self-Insured Retention

1	BT. SMA	Statewide Maximum Allowable (rate)
2	BU. SOW	Scope of Work
3	BV. SUD	Substance Use Disorder
4	BW. UMDAP	Uniform Method of Determining Ability to Pay
5	BX. UOS	Units of Service
6	BY. USC	United States Code
7	BZ. WIC	Women, Infants and Children

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II. ALTERATION OF TERMS

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

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

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III. ASSIGNMENT OF DEBTS

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

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IV. COMPLIANCE

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

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

34 2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own
35 compliance program, code of conduct and any compliance related policies and procedures.
36 CONTRACTOR’s compliance program, code of conduct and any related policies and procedures shall
37 be verified by ADMINISTRATOR’s Compliance Department to ensure they include all required

1 elements by ADMINISTRATOR's Compliance Officer as described in this Compliance Paragraph to
2 this Contract. These elements include:

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

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

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

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

34 B. SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or
35 retained to provide services related to this Contract monthly to ensure that they are not designated as
36 Ineligible Persons, as pursuant to this Contract. Screening shall be conducted against the General
37 Services Administration's Excluded Parties List System or System for Award Management, the Health

1 and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the
2 California Medi-Cal Suspended and Ineligible Provider List, the Social Security Administration's Death
3 Master File at date of employment, and/or any other list or system as identified by ADMINISTRATOR.

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

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

12 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in
13 federal and state health care programs; or

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

17 3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
18 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
19 Contract.

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

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

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

37

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 6. CONTRACTOR shall meet the HCA MHP Quality Management Program Standards and
19 participate in the quality improvement activities developed in the implementation of the Quality
20 Management Program.

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

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

33 **V. CONFIDENTIALITY**

34 A. CONTRACTOR shall maintain the confidentiality of all records, including billings and any
35 audio and/or video recordings, in accordance with all applicable federal, state and county codes and
36 regulations, as they now exist or may hereafter be amended or changed.
37

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

8 9 **VI. CONFLICT OF INTEREST**

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

18 19 **VII. DEBARMENT AND SUSPENSION CERTIFICATION**

20 A. CONTRACTOR certifies that it and its principals:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 6. COUNTY reserves the right to immediately terminate the Contract in the event COUNTY
10 determines, in its sole discretion, that the assignee is not qualified or is otherwise unacceptable to
11 COUNTY for the provision of services under the Contract.

12 C. CONTRACTOR's obligations undertaken pursuant to this Contract may be carried out by
13 means of subcontracts, provided such subcontractors are approved in advance by ADMINISTRATOR,
14 meet the requirements of this Contract as they relate to the service or activity under subcontract, include
15 any provisions that ADMINISTRATOR may require, and are authorized in writing by
16 ADMINISTRATOR prior to the beginning of service delivery.

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

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

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

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

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

37

IX. DISPUTE RESOLUTION

1
2 A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the
3 dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a
4 reasonable period of time by the CONTRACTOR and the ADMINISTRATOR, such matter shall be
5 brought to the attention of the COUNTY Purchasing Agency by way of the following process:

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

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

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

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

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

X. EMPLOYEE ELIGIBILITY VERIFICATION

30
31
32 CONTRACTOR attests that it shall fully comply with all federal and state statutes and regulations
33 regarding the employment of aliens and others and to ensure that employees, subcontractors, and
34 consultants performing work under this Contract meet the citizenship or alien status requirements set
35 forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees,
36 subcontractors, and consultants performing work hereunder, all verification and other documentation of
37 employment eligibility status required by federal or state statutes and regulations including, but not

1 limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently
2 exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all
3 covered employees, subcontractors, and consultants for the period prescribed by the law.

4 5 **XI. EXPENDITURE AND REVENUE REPORT**

6 A. No later than forty-five (45) calendar days following termination of this Contract,
7 CONTRACTOR shall submit to ADMINISTRATOR, for informational purposes only, an Expenditure
8 Report / Expenditure and Revenue Report for the preceding fiscal year, or portion thereof. Such report
9 shall be prepared in accordance with the procedure that is provided by ADMINISTRATOR and GAAP.

10 B. CONTRACTOR may be required to submit periodic Expenditure Reports / Expenditure and
11 Revenue Reports throughout the term of this Contract.

12 13 **XII. FACILITIES, PAYMENTS AND SERVICES**

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

19 20 **XIII. INDEMNIFICATION AND INSURANCE**

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

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

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

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

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

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

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

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

26 F. QUALIFIED INSURER

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

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

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

37

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

H. REQUIRED COVERAGE FORMS

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

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

I. REQUIRED ENDORSEMENTS

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

a. 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, agents and employees* as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN CONTRACT**.

b. A primary non-contributing endorsement using ISO form 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.

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

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

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

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

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

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

14 M. The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss
15 Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the
16 Certificate of Insurance. *[Only include this provision when Employee Dishonesty Insurance is*
17 *required]). **This is primarily used if an "advance" payment is given to the provider. This does not***
18 ***apply to provisional payments which are then reconciled to actual costs in the following month]***

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

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

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

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

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

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

1 T. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If
2 CONTRACTOR does not deposit copies of acceptable Certificate of Insurance and endorsements with
3 COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice,
4 this Contract may be in breach without further notice to CONTRACTOR, and COUNTY shall be
5 entitled to all legal remedies.

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

9 V. SUBMISSION OF INSURANCE DOCUMENTS

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

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

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

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

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

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

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

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

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

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

33
34 **XIV. INSPECTIONS AND AUDITS**

35 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
36 of the State of California, the Secretary of the United States Department of Health and Human Services,
37 the Comptroller General of the United States, or any other of their authorized representatives, shall to

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

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

12 C. AUDIT RESPONSE

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

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

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

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

32 **XV. LICENSES AND LAWS**

34 A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout
35 the term of this Contract, maintain all necessary licenses, permits, approvals, certificates, accreditations,
36 waivers, and exemptions necessary for the provision of the services hereunder and required by the laws,
37

1 regulations and requirements of the United States, the State of California, COUNTY, and all other
2 applicable governmental agencies.

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

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

10 2. CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) calendar days
11 of the award of this Contract:

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

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

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

20
21 **XVI. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

31 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly
32 available social media sites) in support of the services described within this Contract, CONTRACTOR
33 shall develop social media policies and procedures and have them available to ADMINISTRATOR
34 upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media
35 used to either directly or indirectly support the services described within this Contract. CONTRACTOR
36 shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social
37 media developed in support of the services described within this Contract. CONTRACTOR shall also

1 include any required funding statement information on social media when required by
2 ADMINISTRATOR.

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

6 **XVII. MAXIMUM OBLIGATION**

7 The Maximum Obligation of COUNTY for services provided in accordance with this Contract is as
8 specified in the Referenced Contract Provisions of this Contract.

10 **XVIII. MINIMUM WAGE LAWS**

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

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

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

26 **XIX. NONDISCRIMINATION**

27 A. EMPLOYMENT

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

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

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

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

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

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

22 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not
23 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities
24 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental
25 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender
26 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the
27 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights
28 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division
29 4, Chapter 6, Article 1 (§10800, et seq.) of the CCR; and Title II of the Genetic Information
30 Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and
31 regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all
32 may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination
33 paragraph, discrimination includes, but is not limited to the following based on one or more of the
34 factors identified above:

35 1. Denying a Client or potential Client any service, benefit, or accommodation.

36 2. Providing any service or benefit to a Client which is different or is provided in a different
37 manner or at a different time from that provided to other Clients.

1 3. Restricting a Client in any way in the enjoyment of any advantage or privilege enjoyed by
2 others receiving any service and/or benefit.

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

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

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

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

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

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

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

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

33
34 **XX. NOTICES**

35 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements
36 authorized or required by this Contract shall be effective:
37

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

4 2. When faxed, transmission confirmed;

5 3. When sent by Email; or

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

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

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

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

18
19 **XXI. NOTIFICATION OF DEATH**

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

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

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

28 2. WRITTEN NOTIFICATION

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

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

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

37

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

5
6 **XXII. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

14
15 **XXIII. RECORDS MANAGEMENT AND MAINTENANCE**

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

19 B. CONTRACTOR shall ensure appropriate financial records related to cost reporting,
20 expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately.

21 C. CONTRACTOR shall ensure all appropriate state and federal standards of documentation,
22 preparation, and confidentiality of records related to Client records are met at all times.

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

26 E. CONTRACTOR shall make records pertaining to the costs of services, Client fees, charges,
27 billings, and revenues available at one (1) location within the limits of the County of Orange.

28 F. If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR
29 may provide written approval to CONTRACTOR to maintain records in a single location, identified by
30 CONTRACTOR.

31 G. CONTRACTOR may be required to retain all records involving litigation proceedings and
32 settlement of claims for a longer term as directed by ADMINISTRATOR.

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

36
37

1 **XXIV. RESEARCH AND PUBLICATION**

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

5
6 **XXV. SEVERABILITY**

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

12
13 **XXVI. SPECIAL PROVISIONS**

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

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

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

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

- 1 2. Making phone calls outside of the local area unless documented to be directly for the
- 2 purpose of Client care.
- 3 3. Payment for grant writing, consultants, certified public accounting, or legal services.
- 4 4. Purchase of artwork or other items that are for decorative purposes and do not directly
- 5 contribute to the quality of services to be provided pursuant to this Contract.

6

7 **XXVII. STATUS OF CONTRACTOR**

8 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be

9 wholly responsible for the manner in which it performs the services required of it by the terms of this

10 Contract. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and

11 consultants employed by CONTRACTOR. This Contract shall not be construed as creating the

12 relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR

13 or any of CONTRACTOR's employees, agents, consultants, volunteers, interns, or subcontractors.

14 CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents,

15 consultants, volunteers, interns, or subcontractors as they relate to the services to be provided during the

16 course and scope of their employment. CONTRACTOR, its agents, employees, consultants, volunteers,

17 interns, or subcontractors, shall not be entitled to any rights or privileges of COUNTY's employees and

18 shall not be considered in any manner to be COUNTY's employees.

19

20 **XXVIII. TERM**

21 A. The term of this Contract shall commence as specified in the Referenced Contract Provisions of

22 this Contract or the execution date, whichever is later. This Contract shall terminate as specified in the

23 Referenced Contract Provisions of this Contract unless otherwise sooner terminated as provided in this

24 Contract. CONTRACTOR shall be obligated to perform such duties as would normally extend beyond

25 this term, including but not limited to, obligations with respect to confidentiality, indemnification,

26 audits, reporting, and accounting.

27 B. Any administrative duty or obligation to be performed pursuant to this Contract on a weekend

28 or holiday may be performed on the next regular business day.

29

30 **XXIX. TERMINATION**

31 A. CONTRACTOR shall be responsible for meeting all programmatic and administrative

32 contracted objectives and requirements as indicated in this Contract. CONTRACTOR shall be subject

33 to the issuance of a CAP for the failure to perform to the level of contracted objectives, continuing to not

34 meet goals and expectations, and/or for non-compliance. If CAPs are not completed within timeframe

35 as determined by ADMINISTRATOR notice, payments may be reduced or withheld until CAP is

36 resolved and/or the Contract could be terminated.

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

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

17 C. CONTINGENT FUNDING

- 18 1. Any obligation of COUNTY under this Contract is contingent upon the following:
 - 19 a. The continued availability of federal, state and county funds for reimbursement of
20 COUNTY’s expenditures, and
 - 21 b. Inclusion of sufficient funding for the services hereunder in the applicable budget(s)
22 approved by the Board of Supervisors.
- 23 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,
24 terminate or renegotiate this Contract upon thirty (30) calendar days’ written notice given
25 CONTRACTOR. If COUNTY elects to renegotiate this Contract due to reduced or terminated funding,
26 CONTRACTOR shall not be obligated to accept the renegotiated terms.

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

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

- 32 1. Comply with termination instructions provided by ADMINISTRATOR in a manner which
33 is consistent with recognized standards of quality care and prudent business practice.
- 34 2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract
35 performance during the remaining contract term.
- 36 3. Until the date of termination, continue to provide the same level of service required by this
37 Contract.

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

4 5. Assist ADMINISTRATOR in effecting the transfer of Clients in a manner consistent with
5 Client’s best interests.

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

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

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

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

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

23
24 **XXX. THIRD PARTY BENEFICIARY**

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

28
29 **XXXI. WAIVER OF DEFAULT OR BREACH**

30 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any
31 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this
32 Contract shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any
33 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this
34 Contract.

XXXII. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

1
2 1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract
3 work which may require or involve the employment of laborers or mechanics shall require or permit any
4 such laborer or mechanic in any workweek in which he or she is employed on such work to work in
5 excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate
6 not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours or
7 8 hours per day as required by CA law in such workweek.

8 2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the
9 clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor
10 shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the
11 United States (in the case of work done under contract for the District of Columbia or a territory, to such
12 District or to such territory), for liquidated damages. Such liquidated damages shall be computed with
13 respect to each individual laborer or mechanic, including watchmen and guards, employed in violation
14 of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which
15 such individual was required or permitted to work in excess of the standard workweek of forty hours
16 without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

17 3. Withholding for unpaid wages and liquidated damages. The County shall upon its own action or
18 upon written request of an authorized representative of the Department of Labor withhold or cause to be
19 withheld, from any moneys payable on account of work performed by the contractor or subcontractor
20 under any such contract or any other Federal contract with the same prime contractor, or any other
21 federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held
22 by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities
23 of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause
24 set forth in paragraph (2) of this section.

25 4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set
26 forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to
27 include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for
28 compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1)
29 through (4) of this section.

30
31 **XXXIII. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT**

32 A. Clean Air Act

33 1. The Contractor agrees to comply with all applicable standards, orders or regulations issued
34 pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

35 2. The Contractor agrees to report each violation to the County and understands and agrees
36 that the County will, in turn, report each violation as required to assure notification to the Federal
37

1 Emergency Management Agency, and the appropriate Environmental Protection Agency Regional
2 Office.

3 3. The Contractor agrees to include these requirements in each subcontract exceeding
4 \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5 B. Federal Water Pollution Control Act

6 1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued
7 pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

8 2. The Contractor agrees to report each violation to the County and understands and agrees
9 that the County will, in turn, report each violation as required to assure notification to the Federal
10 Emergency Management Agency, and the appropriate Environmental Protection Agency Regional
11 Office.

12 3. The Contractor agrees to include these requirements in each subcontract exceeding
13 \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

14
15 **XXXIV. SUSPENSION AND DEBARMENT**

16 1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt.
17 3000. As such, the Contractor is required to verify that none of the contractor’s principals (defined at 2
18 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. §
19 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

20 2. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart
21 C, and must include a requirement to comply with these regulations in any lower tier covered
22 transaction it enters into.

23 3. This certification is a material representation of fact relied upon by County. If it is later
24 determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000,
25 subpart C, in addition to remedies available to County, the Federal Government may pursue available
26 remedies, including but not limited to suspension and/or debarment.

27 4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart
28 C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract
29 that may arise from this offer. The bidder or proposer further agrees to include a provision requiring
30 such compliance in its lower tier covered transactions.

31
32 **XXXV. BYRD ANTI-LOBBYING AMENDMENT**

33 A. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

34 1. Contractors who apply or bid for an award of \$100,000 or more shall file the required
35 certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated
36 funds to pay any person or organization for influencing or attempting to influence an officer or
37 employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a

1 Member of Congress in connection with obtaining any Federal contract, grant, or any other award
2 covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that
3 takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to
4 tier up to the recipient who in turn will forward the certification(s) to the awarding agency. Contractor
5 must execute the certification, as provided in Exhibit D.

6 7 **XXXVI. PROCUREMENT OF RECOVERED MATERIALS**

- 8 1. In the performance of this contract, the Contractor shall make maximum use of products
9 containing recovered materials that are EPA-designated items unless the product cannot be acquired
- 10 a. Competitively within a timeframe providing for compliance with the contract
11 performance schedule;
- 12 b. Meeting contract performance requirements; or
- 13 c. At a reasonable price.
- 14 2. Information about this requirement, along with the list of EPA- designated items, is
15 available at EPA's Comprehensive Procurement Guidelines web site,
16 <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- 17 3. The Contractor also agrees to comply with all other applicable requirements of Section
18 6002 of the Solid Waste Disposal Act.

19 20 **XXXVII. ACCESS TO RECORDS**

- 21 1. The Contractor agrees to provide County, the FEMA Administrator, the Comptroller
22 General of the United States, or any of their authorized representatives access to any books, documents,
23 papers, and records of the Contractor which are directly pertinent to this contract for the purposes of
24 making audits, examinations, excerpts, and transcriptions.
- 25 2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means
26 whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 27 3. The Contractor agrees to provide the FEMA Administrator or his authorized representatives
28 access to construction or other work sites pertaining to the work being completed under the contract.
- 29 4. In compliance with the Disaster Recovery Act of 2018, the County and the Contractor
30 acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews
31 by the FEMA Administrator or the Comptroller General of the United States.

32 33 **XXXVIII. DEPARTMENT OF HOMELAND SECURITY (DHS) SEAL, LOGO, AND FLAGS**

34 The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of
35 DHS agency officials without specific FEMA pre-approval.

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XXXIX. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

XL. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

XLI. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor’s actions pertaining to this contract.

(SIGNATURE PAGE TO FOLLOW)

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

3
4 TALENT STRATEGIES DBA HEALTHCARE TALENT

5
6 DocuSigned by:
7 BY: Pamela Jung
8 A94F37F722E14CA...

DATED: 5/7/2020

9 TITLE: CEO

10 DocuSigned by:
11 BY: Chris Jung
12 CCD94EE02CA7466...

DATED: 5/7/2020

13 TITLE: Secretary

14
15
16
17
18 COUNTY OF ORANGE

19
20 DocuSigned by:
21 BY: Anna Peters
22 EF91A79093884BF
23 PURCHASING AGENT/DESIGNEE

DATED: 5/7/2020

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

EXHIBIT A
 TO CONTRACT FOR THE PROVISION OF
 MEDICAL STAFFING SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 TALENT STRATEGIES DBA HEALTHCARE TALENT
 MAY 7, 2020 THROUGH MAY 6, 2021

I. PAYMENTS

COUNTY shall pay CONTRACTOR at the agreed upon rates for Medical staffing:

Medical Staffing Surge Services	Hourly Rates	Overtime
Registered Nurse (RN)	\$99.00	1.5x
Licensed Vocational Nurse	\$65.00	1.5x
Certified Nursing Assistant	\$42.00	1.5x
Nurse Practitioner/Physician Assistant	\$132.00	1.5x
Physician (Primary Care)	\$225.00	n/a
Respiratory Therapist	\$80.00	1.5x
Emergency Medical Technician	\$55.00	1.5x
Medical Office Secretary	\$47.00	1.5x
RN Charge/Specialty Nurse	\$120.00	1.5x

A. CONTRACTOR and ADMINSTRATOR agree that additional Medical Staffing Services may be needed throughout the term of the Contract. Should additional Medical Staffing Services be needed, than those services listed, ADMINISTRATOR will approve the Medical Staffing Service on a case-by-case basis and determine an appropriate hourly rate.

B. CONTRACTOR's billings shall be on a form approved or provided by ADMINISTRATOR and shall include information required by ADMINISTRATOR. COUNTY should release payments to CONTRACTOR no later than twenty-one (21) business days after receipt of the correctly completed billing form.

C. All billings to COUNTY shall be supported at CONTRACTOR's facility, by source documentation including, but are not limited to, ledgers, books, vouchers, journals, time sheets, payrolls, appointment schedules, Client data cards, schedules for allocating costs, invoices, bank statements, canceled checks, receipts, receiving records, and records of services provided. ADMINISTRATOR may require CONTRACTOR to submit documentation in support of the weekly billing.

1 D. All invoices must include address of where services were provided.

2 E. ADMINISTRATOR may withhold or delay any payment or partial payment if CONTRACTOR
3 fails to comply with any provision of this Contract, including, but are not limited to, CONTRACTOR's
4 obligations with respect to data collection, reporting requirements, correcting deficiencies, or delays in
5 progressing satisfactorily in achieving all the terms of the Contract.

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

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

11
12 **II. RECORDS**

13 A. ACTIVITY RECORDS – CONTRACTOR shall maintain adequate records of its services
14 provided in sufficient detail to permit an evaluation of services. Records shall include sign in sheets for
15 events, flyers or other promotional materials, as well as an activity log for technical assistance.

16 B. FINANCIAL RECORDS – CONTRACTOR shall prepare and maintain accurate and complete
17 financial records of its costs and operating expenses. Such records shall reflect the actual costs of the
18 type of service for which payment is claimed. Any apportionment of or distribution of costs, including
19 indirect costs, to or between programs or cost centers of CONTRACTOR shall be documented, and
20 shall be made in accordance with generally accepted principles of accounting.

21
22 **III REPORTS**

23 A. CONTRACTOR shall submit, on forms provided or approved by ADMINISTRATOR,
24 financial and/or programmatic reports if requested by ADMINISTRATOR concerning
25 CONTRACTOR's activities as they relate to the Contract. ADMINISTRATOR will be specific as to
26 the nature of the information requested and allow thirty (30) calendar days for CONTRACTOR to
27 respond.

28 B. FISCAL – Weekly reports, submitted with CONTRACTOR's billings, which shall include, at a
29 minimum, the number of activities and contacts achieved and number of staff hours worked, but not be
30 limited to the following unless otherwise agreed to in writing by ADMINISTRATOR.

31 C. CONTRACTOR shall electronically submit a weekly expenditure report to ADMINISTRATOR
32 and designated COUNTY staff, in support of the weekly invoice. These reports shall be on a form
33 provided or approved by ADMINISTRATOR, and shall include the units of service provided and actual
34 costs for each of CONTRACTOR's program(s) or cost center(s) described in the Service paragraph of
35 this Exhibit A to the Contract. Reports are due to ADMINISTRATOR no later than the twentieth (20th)
36 calendar day of the month following the month in which services were performed under the Contract,
37 unless otherwise agreed to in writing by ADMINISTRATOR.

1 D. PROGRAMMATIC – Periodic programmatic reports on forms provided or approved by
2 ADMINISTRATOR, which shall include, a description of CONTRACTOR’s progress in implementing
3 the provisions of this Contract; any pertinent facts or interim findings; staff changes; and status of
4 licenses and/or certifications. CONTRACTOR shall report on whether or not it is progressing
5 satisfactorily in achieving all the terms of the Contract, and if not, shall specify what steps will be
6 taken to achieve satisfactory progress. These periodic programmatic reports shall be submitted
7 according to the timeline specified by ADMINISTRATOR.

8 E. ADDITIONAL REPORTS – CONTRACTOR shall make additional reports, as required by
9 ADMINISTRATOR, concerning CONTRACTOR’s activities as they affect the services hereunder.
10 ADMINISTRATOR will be specific as to the nature of information requested and allow thirty (30)
11 calendar days for CONTRACTOR to respond.

12 F. All records and reports submitted to ADMINISTRATOR shall become the property of
13 COUNTY.

14 G. ADMINISTRATOR and CONTRACTOR may mutually agree, in writing, to modify the
15 Reports Paragraph of this Exhibit A to the Contract.

16
17 **IV. SERVICES**

18 **A. TARGET POPULATION**

19 COVID-19 Surge patients in varying medical settings including, but not limited to, hospitals, skilled
20 nursing facilities, and medical clinics.

21 **B. SERVICES TO BE PROVIDED**

22 CONTRACTOR shall provide services that include the following:

- 23 1. CONTRACTOR shall provide Medical Staffing related to COVID-19 response.

24 **C. PERFORMANCE OBJECTIVES**

25 CONTRACTOR shall ensure that the following performance objectives are met:

26 1. CONTRACTOR shall provide appropriately licensed and experienced staff on an ongoing
27 basis within 24 hours of notice, depending on availability of staff.

28 2. CONTRACTOR shall have the capacity, depending on staff availability, to provide
29 consistent full-time staff which includes licensed medical professionals on an ongoing basis for up to
30 three (3) months as needed for core Public Health services.

- 31 3. CONTRACTOR shall provide surge nursing personnel as needed for clinical services.

32 **D. STAFFING REQUIREMENTS**

33 CONTRACTOR shall ensure that the projects staffing includes the following:

34 1. Clinical staff should have a certificate and/or prior Public Health experience in
35 communicable disease response preferred.

36 2. Contractor must be willing to screen and pass all potential candidates before placing for this
37 contract for the following:

1 a) Tuberculosis (TB) clearance – Candidates must provide TB test results either from two
2 consecutive years (no more than 12 months apart), the most recent within the last 12 months. Or two (2)
3 step TB testing (initial test and 2nd test 1-4 weeks after the first) completed within the last
4 12 months.

5 b) For Previous Positive reactors, proof of a positive TB skin test is required. If there is
6 no proof, candidate needs to be tested. Candidate will also be required to provide a report from a chest
7 x-ray within the last 12 months.

8 c) Sanction Screening – Candidates must be sanction screened to ensure they are not
9 designated as an ineligible person. Applicant must keep screening results on file for the period defined
10 in the contract. Screening shall be completed using the General Services Administration’s Excluded
11 Parties List System or System for Award Management, The Health and Humans Services/Office of
12 Inspector General List of Excluded Individuals/Entities, and the California Medi-Cal Suspended and
13 Ineligible Provider List and /or any other as identified by the Administrator. The links are:

14 1) System for Award Management:<https://www.sam.gov>

15 2) HHS Inspector General List: <https://exclusions.oig.hhs.gov/>

16 3) California Medi-Cal Suspended and Ineligible provider list:

17 <http://files.medi-cal.ca.gov>

18 E. CONTRACTOR shall not conduct any proselytizing activities, regardless of funding sources,
19 with respect to any person who has been referred to CONTRACTOR by COUNTY under the terms of
20 this Contract. Further, CONTRACTOR agrees that the funds provided hereunder shall not be used to
21 promote, directly or indirectly, any religion, religious creed or cult, denomination or sectarian
22 institution, or religious belief.

23 F. CONTRACTOR shall make its best efforts to provide services pursuant to this Contract in a
24 manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR
25 shall maintain documentation of such efforts which may include, but not be limited to: records of
26 participation in COUNTY-sponsored or other applicable training; recruitment and hiring policies and
27 procedures; copies of literature in multiple languages and formats, as appropriate; and descriptions of
28 measures taken to enhance accessibility for, and sensitivity to, persons who are physically challenged.

29 G. ADMINISTRATOR and CONTRACTOR may mutually agree, in writing, to modify the
30 Services Paragraph of this Exhibit A to the Contract.

EXHIBIT B
TO CONTRACT FOR THE PROVISION OF
MEDICAL STAFFING SERVICES
BETWEEN
COUNTY OF ORANGE
AND
TALENT STRATEGIES DBA HEALTHCARE TALENT
MAY 7, 2020 THROUGH MAY 6, 2021

I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

1. The parties agree that the terms used, but not otherwise defined in the Common Terms and Definitions Paragraph of Exhibit A to the Agreement or in Subparagraph B below, shall have the same meaning given to such terms under HIPAA, the HITECH Act, and their implementing regulations at 45 CFR Parts 160 and 164 (“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 Agreement that are described in the definition of “Business Associate” in 45 CFR § 160.103.

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

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

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

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

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

3 B. DEFINITIONS

4 1. "Administrative Safeguards" are administrative actions, and P&Ps, to manage the selection,
5 development, implementation, and maintenance of security measures to protect ePHI and to manage the
6 conduct of CONTRACTOR's workforce in relation to the protection of that information.

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

9 a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

1 7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in
2 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance
3 with 45 CFR § 164.502(g).

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

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

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

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

13 12. "Secretary" shall mean the Secretary of the Department of HHS or his or her designee.

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

19 14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of ePHI at
20 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

21 15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in
22 45 CFR § 160.103.

23 16. "Technical safeguards" means the technology and the P&Ps for its use that protect ePHI
24 and control access to it.

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

28 18. "Use" shall have the meaning given to such term under the HIPAA regulations in
29 45 CFR § 160.103.

30 C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

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

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

1 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of
2 45 CFR Part 164 with respect to ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR
3 creates, receives, maintains, or transmits on behalf of COUNTY.

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

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

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

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

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

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

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

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

37

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

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

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

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

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

33 a. CONTRACTOR does not promptly enter into negotiations to amend this Business
34 Associate Contract when requested by COUNTY pursuant to this Subparagraph C; or

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

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

4 D. SECURITY RULE

5 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish
6 and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with
7 45 CFR § 164.308, § 164.310, and § 164.312, with respect to ePHI COUNTY discloses to
8 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY.
9 CONTRACTOR shall develop and maintain a written information privacy and security program that
10 includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of
11 CONTRACTOR's operations and the nature and scope of its activities.

12 2. CONTRACTOR shall implement reasonable and appropriate P&Ps to comply with the
13 standards, implementation specifications and other requirements of 45 CFR Part 164, Subpart C, in
14 compliance with 45 CFR § 164.316. CONTRACTOR will provide COUNTY with its current and
15 updated policies upon request.

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

21 a. Complying with all of the data system security precautions listed under Subparagraph
22 E., below;

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

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

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

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

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

1 E. DATA SECURITY REQUIREMENTS

2 1. Personal Controls

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

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

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

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

28 2. Technical Security Controls

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

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

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

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

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

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

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

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

36 h. Data Destruction. When no longer needed, all PHI COUNTY discloses to
37 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY

1 must be wiped using the Gutmann or US DoD 5220.22-M (7 Pass) standard, or by degaussing. Media
2 may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods
3 require prior written permission by COUNTY.

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

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

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

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

23 m. Transmission encryption. All data transmissions of PHI COUNTY discloses to
24 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY
25 outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is
26 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files
27 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as
28 website access, file transfer, and E-Mail.

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

33 3. Audit Controls

34 a. System Security Review. CONTRACTOR must ensure audit control mechanisms that
35 record and examine system activity are in place. All systems processing and/or storing PHI COUNTY
36 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
37 COUNTY must have at least an annual system risk assessment/security review which provides

1 assurance that administrative, physical, and technical controls are functioning effectively and providing
2 adequate levels of protection. Reviews should include vulnerability scanning tools.

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

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

10 4. Business Continuity/Disaster Recovery Control

11 a. Emergency Mode Operation Plan. CONTRACTOR must establish a documented plan
12 to enable continuation of critical business processes and protection of the security of PHI COUNTY
13 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of
14 COUNTY kept in an electronic format in the event of an emergency. Emergency means any
15 circumstance or situation that causes normal computer operations to become unavailable for use in
16 performing the work required under this Agreement for more than twenty-four (24) hours.

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

23 5. Paper Document Controls

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

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

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

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

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

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

16 F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

26 2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY
27 Privacy Officer. CONTRACTOR's notification may be oral, but shall be followed by written
28 notification within twenty-four (24) hours of the oral notification.

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

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

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

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

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

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

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

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

10 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in
11 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the
12 COUNTY.

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

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

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

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

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

34 **G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR**

35 1. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR
36 as necessary to perform functions, activities, or services for, or on behalf of, COUNTY as specified in
37

1 the Agreement, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done
2 by COUNTY except for the specific Uses and Disclosures set forth below.

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

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

8 1) The Disclosure is required by law; or

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

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

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

19 3. CONTRACTOR may use and disclose PHI COUNTY discloses to CONTRACTOR
20 consistent with the minimum necessary P&Ps of COUNTY.

21 4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as
22 required by law.

23 H. PROHIBITED USES AND DISCLOSURES

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

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

33 I. OBLIGATIONS OF COUNTY

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

37

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

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

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

9 J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

EXHIBIT C
 TO CONTRACT FOR THE PROVISION OF
 MEDICAL STAFFING SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 TALENT STRATEGIES DBA HEALTHCARE TALENT
 MAY 7, 2020 THROUGH MAY 6, 2021

I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT

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

A. DEFINITIONS

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

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

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

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

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

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

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

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

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

1 information if payment is sought under a government program providing public benefits.

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

5 B. TERMS OF AGREEMENT

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

10 2. Responsibilities of CONTRACTOR

11 CONTRACTOR agrees:

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

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

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

27 1) Complying with all of the data system security precautions listed in Subparagraph
28 E. of the Business Associate Contract, Exhibit B to the Agreement; and

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

33 3) If the data obtained by CONTRACTOR from COUNTY includes PII,
34 CONTRACTOR shall also comply with the substantive privacy and security requirements in the
35 CMPPA Agreement between the SSA and the CHHS and in the Agreement between the SSA and
36 DHCS, known as the IEA. The specific sections of the IEA with substantive privacy and security
37 requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic

1 Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local
2 Agencies Exchanging Electronic Information with the SSA. CONTRACTOR also agrees to ensure that
3 any of CONTRACTOR's agents or subcontractors, to whom CONTRACTOR provides DHCS PII agree
4 to the same requirements for privacy and security safeguards for confidential data that apply to
5 CONTRACTOR with respect to such information.

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

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

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

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

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

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

EXHIBIT D
 TO CONTRACT FOR THE PROVISION OF
 MEDICAL STAFFING SERVICES
 BETWEEN
 COUNTY OF ORANGE
 AND
 TALENT STRATEGIES DBA HEALTHCARE TALENT
 MAY 7, 2020 THROUGH MAY 6, 2021

I. CERTIFICATION REGARDING ANTI-LOBBYING

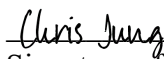
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Talent Strategies DBA HealthCare Talent, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



 Signature of Contractor's Authorized Official
 Chris Jung

 Name and Title of Contractor's Authorized Official
 5/7/2020

 Date