

**PERSONAL SERVICES CONTRACT**

Health and Human Services Agency  
County of Nevada, California

This Personal Services Contract is made between the COUNTY OF NEVADA (herein "County"), and

**RECORDXPRESS OF CALIFORNIA, LLC D/B/A  
ACCESS INFORMATION MANAGEMENT**

(herein "Contractor"), wherein County desires to retain a person or entity to provide the following services, materials and products generally described as follows:

(§1) **Cataloguing and storage of inactive, closed and archival records for the County's Health and Human Services Agency (HHS).**

**SUMMARY OF MATERIAL TERMS**

(§2) **Maximum Contract Price:** \$ 50,000  
(§3) **Contract Beginning Date:** 07/01/2019      **Contract Termination Date:** 06/30/2021  
(§4) **Liquidated Damages:** N/A

**INSURANCE POLICIES**

Designate all required policies:

		Req'd	Not Req'd
(§6)	<b>Commercial General Liability</b> (\$2,000,000)	<u>X</u>	<u>    </u>
(§7)	<b>Automobile Liability</b>	<u>X</u>	<u>    </u>
	(\$ 300,000) Personal Auto <u>    </u> (\$1,000,000) Business Rated <u>X</u>		
	(\$1,000,000) Commercial Policy <u>    </u>		
(§8)	<b>Workers' Compensation</b>	<u>X</u>	<u>    </u>
(§9)	<b>Errors and Omissions</b> (\$1,000,000)	<u>    </u>	<u>X</u>

**LICENSES**

Designate all required licenses:

(§14) N/A

**NOTICE & IDENTIFICATION**

(§33) **Contractor: Record Xpress of California, LLC**      **County of Nevada:**  
**d/b/a Access Information Management**      950 Maidu Avenue  
5785 Las Positas Drive      Nevada City, California 95959  
Livermore, California 94550  
Contact Person: Jon M. Navone      Contact Person: Sara Connor  
Phone: (925) 453-9095      Phone: (530) 265-7195  
E-mail: jnavone@accesscorp.com      E-mail: Sara.Connor@co.nevada.ca.us

**Funding:** 1589-50105-494-5001/521520      CFDA No.: Multiple  
CFDA Agreement No.: CEC-29-2018

**Contractor is a:** (check all that apply)

Corporation:      X Calif.           Other      X LLC           Non-profit  
Partnership:           Calif.           Other           LLP           Limited  
Person:           Individ.           Dba           Ass'n           Other

**EDD:** Independent Contractor Worksheet Required:           Yes      X No

**ATTACHMENTS**

Designate all required attachments:

	Req'd	Not Req'd
<b>Exhibit A: Schedule of Services</b> (Provided by Contractor)	<u>X</u>	<u>    </u>
<b>Exhibit B: Schedule of Charges and Payments</b> (Paid by County)	<u>X</u>	<u>    </u>
<b>Exhibit C: Schedule of Changes</b> (Additions, Deletions & Amendments)	<u>X</u>	<u>    </u>
<b>Exhibit D: Schedule of HIPAA Provisions</b> (Protected Health Information)	<u>X</u>	<u>    </u>
<b>Exhibit E: Uniform Administrative Requirements</b> (CFDA-Funded)	<u>    </u>	<u>X</u>

### Terms

Each term of this Contract below specifically incorporates the information set forth in the Summary at page one (1) above as to each respective section (§) therein, as the case may be.

### Services

#### 1. **Scope of Services:**

Contractor shall provide all of the services, materials and products (herein "Services") generally described in **Exhibit "A"**, according to a performance schedule, if applicable, as set forth in said exhibit (herein "Performance Schedule"). If requested, Contractor agrees to serve as an expert witness for County in any third party action or proceeding arising out of this Contract.

### Payment

#### 2. **Charges and Payments:**

The charges (herein "Charges") for furnishing the aforesaid Services under this Contract are set forth in **Exhibit "B"**, including, if applicable, hourly rates, unit pricing, and expense, mileage and cost limits. Said Charges shall be presented monthly by invoice, and shall be due within thirty (30) days of receipt of said invoice unless payment is otherwise set forth in said **Exhibit "B"**, and shall remain in effect for the entire term of this Contract, and any extension hereof. In no event will the cost to County for Services to be provided under this Contract, including direct non-salary expenses, exceed the **Maximum Contract Price** set forth at §2, page one (1), of this Contract. If a Catalog of Federal Domestic Assistance ("CFDA") number is designated at §33, page one (1), of this Contract, then all components of compensation billed to County shall be calculated in accordance with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Chapter I, Chapter II, Part 200, et al (commonly referred to as the "OMB Super Circular" or "Uniform Guidance").

### Time for Performance

#### 3. **Contract Term:**

This Contract shall commence on the **Contract Beginning Date** set forth at §3, page one (1), of this contract. All Services required to be provided by this Contract shall be completed and ready for acceptance no later than the **Contract Termination Date** set forth at §3, page one (1), of this Contract.

#### 4. **Liquidated Damages:**

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, if §4 at page one (1) hereof shall indicate a daily amount as **Liquidated Damages**, County shall have the right to assess said daily sum, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein "Delay"). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

To the extent that any Delay is a result of matters or circumstances wholly beyond the control of Contractor, County may excuse said Liquidated Damages; provided however, that County may condition such excuse upon Contractor having given prompt notice to County of such delay immediately by telephone and thereafter by written explanation within a reasonable time. The time for Contractor's performance shall be extended by the period of delay, or such other period as County may elect.

#### 5. **Time of the Essence:**

Time is of the essence with respect to Contractor's performance under this Contract. Delay in meeting the time commitments contemplated herein will result in the assessment of liquidated damages, if indicated at §4 at page one (1), hereof. If Liquidated Damages are not so indicated, damages shall be as otherwise provided by law.

### Insurance

#### 6. **Commercial General Liability Insurance:** (County Resolution Nos. 90-674, 02-439)

If §6 at page one (1) hereof shall indicate a **Commercial General Liability** insurance policy is required, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:

- (i) Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount indicated at said §6;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and non-contributory, that other insurance maintained by the County of Nevada shall be excess only and that neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance available to County;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

**7. Automobile Liability Insurance:** (County Resolution No. 90-676)

If §7 at page one (1) hereof shall require either a Business Rated or a Commercial Automobile Liability insurance policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

- (i) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount indicated at said §7;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and non-contributory, that other insurance maintained by the County of Nevada shall be excess only and that neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance available to County;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

If §7 at page one (1) hereof shall require a Personal Auto policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance for a minimum of three hundred thousand dollars, (\$300,000), in combined single limits, and naming the County as additionally insured.

**8. Workers' Compensation:** (County Resolution No. 90-674)

If §8 at page one (1) hereof shall indicate a **Workers' Compensation** insurance policy is required, Contractor shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the County, its agents, officers, employees, and volunteers for losses arising from work performed by Contractor for the County.

Before commencing to utilize employees in providing Services under this Contract, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for workers' compensation liability or to undertake a program of self-insurance therefor.

**9. Errors and Omissions:**

If §9 at page one (1) hereof shall indicate **Errors and Omissions** insurance is required, Contractor shall maintain either a professional liability or errors & omissions policy in the minimum amount indicated, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

**10. Miscellaneous Insurance Provisions:** (County Resolution Nos. 90-674, 90-675)

All policies of insurance required by this Contract shall remain in full force and effect throughout the life of this Contract and shall be payable on a "per occurrence" basis unless County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if

Contractor changes insurance carriers during the term of this Contract or any extensions hereof, then Contractor shall carry prior acts coverage. The following additional conditions apply to "claims made" coverage: In order for the acts and omissions of Contractor and all its agents during the term of this Agreement to be "continually covered" there must be insurance coverage for the entire contract period commencing on the effective date of this Agreement and ending on the date that is three (3) years beyond the final date this Agreement is effective, including any extensions or renewals of this Agreement. Contractor acknowledges that the provision of this Section may necessitate the purchase of "tail insurance" if coverage lapses. The requirement to maintain tail insurance shall survive termination of this Agreement.

Insurance afforded by the additional insured endorsement shall apply as primary and non-contributory insurance, and neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance maintained by County, its officers, agents and/or employees. Any insurance or self-insurance maintained by County, its officers, agents and/or employees shall be excess only and not contributing with insurance required or provided under this agreement.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County Risk Manager. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph, or be in material breach of this Contract.

Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Contract shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both. (See §13, ¶2, below, as these provisions additionally apply to subcontractors.)

#### **11. Indemnity:**

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify, defend and hold harmless the County and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of Contractor, except such loss or damage which was caused by the sole negligence or willful misconduct of County or its officers, officials, employees, agents and volunteers.

### **Personal Services**

#### **12. Contractor as Independent:**

In providing services herein, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County. Contractor agrees neither its agents nor employees have any rights, entitlement or claim against County for any type of employment benefits or workers' compensation or other programs afforded to County employees. Contractor shall hold County harmless and indemnify County against any such claim by its agents or employees.

#### **13. Assignment and Subcontracting:**

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Contractor and may not be transferred, subcontracted, or assigned without the prior written consent of County. Contractor shall not substitute nor replace any personnel for those specifically named herein or in its proposal without the prior written consent of County.

Unless otherwise agreed in writing by the County's Risk Manager, Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at §§6, 7, 8, 9 and 10, in the same amounts and subject to the same terms as are required of Contractor under this Contract, unless otherwise provided by County's Risk Manager. Said insurance shall include all upstream parties (including the Contractor and the County) as additional insureds using a Blanket Additional Insured Endorsement (ISO form number CG 20 38 04 13) or coverage at least as broad. Contractor shall verify that all subcontractors provide a policy endorsement in compliance with this Paragraph and shall provide a copy of the same to County at least ten (10) working days prior to commencement of any work by subcontractor. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee, or to timely provide County with a copy of the

required policy endorsement, shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

**14. Licensing and Permits:**

Contractor warrants (i) Contractor is qualified and competent to provide all Services under this contract; (ii) Contractor and all employees of Contractor hold all necessary and appropriate licenses therefor, including those licenses set forth at §14, page one (1) hereof; and, (iii) Contractor shall obtain, and remain in compliance with, all permits necessary and appropriate to provide said Services. Contractor shall cause said licenses and permits to be maintained throughout the life of this Contract. Failure to do so shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

**Public Contracts**

**15. Certificate of Good Standing:**

Registered corporations including those corporations that are registered non-profits shall possess a Certificate of Good Standing also known as Certificate of Existence or Certificate of Authorization from the California Secretary of State, and further warrants to shall keep its status in good standing and effect during the term of this Contract.

**16. Prevailing Wage and Apprentices:**

To the extent made applicable by law, performance of this contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with Section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code §§ 1720, et seq.; and shall be in conformity with Title 8 of the California Code of Regulations §§ 200 et seq., relating to apprenticeship. Contractor shall comply with the provisions thereof at the commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall be deemed a material breach of this contract. A copy of the relevant prevailing wage as defined in Labor Code §1770 et seq. is on file with the Department of Transportation, County of Nevada, 950 Maidu Avenue, Nevada City, California 95959. Copies will be provided upon request.

**17. Accessibility (County Resolution No. 00190):**

It is the policy of the County of Nevada that all County services, programs, meetings, activities and facilities shall be accessible to all persons, and shall be in compliance with the provisions of the Americans with Disabilities Act and Title 24, California Code of Regulations. To the extent this Contract shall call for Contractor to provide County contracted services directly to the public, Contractor shall certify that said direct Services are and shall be accessible to all persons.

**18. Nondiscriminatory Employment:**

In providing Services hereunder, Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including the provisions of the Americans with Disabilities Act of 1990, and Fair Employment and Housing Act, and shall not discriminate against any employee, or applicant for employment or client because of race, sex, sexual orientation, color, ancestry, religion or religious creed, national origin or ethnic group identification, political affiliation, mental disability, physical disability, medical condition (including cancer, HIV and AIDS), age (over 40), marital status, or use of Family and Medical Care Leave and/or Pregnancy Disability Leave in regard to any position for which the employee or applicant is qualified.

If applicable, Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.

**19. Drug-Free Workplace:**

Senate Bill 1120, (Chapter 1170, Statutes of 1990), requires recipients of state grants to maintain a "drug-free workplace". Every person or organization awarded a contract for the procurement of any property or services shall certify as required under Government Code Section 8355-8357 that it will provide a drug-free workplace.

**20. Prior Nevada County Employment (County Resolution No. 03-353):**

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contract with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by County, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

**21. Conflict of Interest:**

Contractor shall not cause, use or allow any payments, funds or proceeds derived from this Contract to be used, either directly or indirectly, for salary, wages or benefits, for any of its officers, directors, or shareholders. Contractor shall not cause, use nor allow any payments, funds or proceeds derived from this Contract to be used, either directly or indirectly, for salary, wages or benefits for any of its agents, servants, or employees, except those expressly specified in Exhibit "B".

Contractor further certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest and that no officer or employee who performs any function or responsibilities in connection with this contract shall have any personal financial interest or benefit that either directly or indirectly arises from this contract. Contractor shall establish safeguards to prohibit its employees or its officers from using their position for the purpose that could result in private gain or that gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business or other ties.

**22. Political Activities:**

Contractor shall in no instance expend funds or use resources derived from this Contract on any political activities.

**23. Cost Disclosure:**

In accordance with Government Code Section 7550, should a written report be prepared under or required by the provisions of this Contract, Contractor agrees to state in a separate section of said report the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of said report.

**Default and Termination**

**24. Termination:**

a. A Material Breach of this Contract pursuant to the terms hereof or otherwise, in addition to any other remedy available at law, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this contract, or both **without notice**.

b. If Contractor fails to timely provide in any manner the services, materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) days written notice** to Contractor.

c. County, upon giving **seven (7) calendar days written notice** to Contractor, shall have the right to terminate its obligations under this Contract if the County, the Federal Government or the State of California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

d. Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by certified mail in conformity with the notice provisions. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Contractor shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

e. Any notice to be provided under this section may be given by the County Executive Officer or Designee or Agency Director.

**25. Suspension:**

County, upon giving seven (7) calendar days written notice to Contractor, shall have the right to suspend this Contract, in whole or in part, for any time period as County deems necessary due to delays in federal, state or County appropriation of funds, lack of demand for services to be provided under this contract, or other good cause. Upon receipt of a notice of suspension from County, Contractor shall immediately suspend or stop work as directed by County and shall not resume work until and unless County gives Contractor a written notice to resume work. In the event of a suspension not the fault of the Contractor, Contractor shall be paid for services performed to the date of the notice of suspension in accordance with the terms of this Contract.

**Miscellaneous**

**26. Financial, Statistical and Contract-Related Records:**

a. **BOOKS AND RECORDS:** Contractor shall maintain statistical records and submit reports as required by County. Contractor shall also maintain accounting and administrative books and records, program procedures and documentation relating to licensure and accreditation as they pertain to this Contract. All such financial, statistical and contract-related records shall be retained for five (5) years or until program review findings and/or audit findings are resolved, whichever is later. Such records shall include but not be limited to bids and all supporting documents, original entry books, canceled checks, receipts, invoices, payroll records, including subsistence, travel and field expenses, together with a general ledger itemizing all debits and credits.

b. **INSPECTION:** Upon reasonable advance notice and during normal business hours or at such other times as may be agreed upon, Contractor shall make all of its books and records available for inspection, examination or copying, to County, or to the State Department of Health Care Services, the Federal Department of Health and Human Services, the Controller General of the United States and to all other authorized federal and state agencies, or their duly authorized representatives.

c. **AUDIT:** Contractor shall permit the aforesaid agencies or their duly authorized representatives to audit all books, accounts or records relating to this Contract, and all books, accounts or records of any business entities controlled by Contractor who participated in this Contract in any way. All such records shall be available for inspection by auditors designated by County or State, at reasonable times during normal business hours. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within fifteen (15) days upon delivery of written notice from County. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charge of five percent (5%) or more of the Maximum Contract Price.

**27. Non- Profit Provisions:**

If Contractor is registered as a non-profit corporation, Contractor shall comply with the following requirements of this section:

**a. Reporting Requirements:**

Contractor shall submit a report to County no later than thirty (30) days after the aforesaid Contract Termination Date, which report shall identify the status of each service which was provided as described in **Exhibit "A"** (Schedule of Services), and detail all amounts expended as set forth in **Exhibit "B"** (Schedule of Charges and Payments), or otherwise. This report is subject to audit by the Nevada County Auditor/Controller.

**b. Supplemental Audit Provisions:**

(i) Contractor shall provide the most recent copy of the Contractor's reviewed or audited financial statements. Said financial statements shall be verified by an independent Certified Public Accountant. These financial statements together with the Certified Public Accountant's verification are due to the County within thirty (30) days of execution of the Contract. If Contractor, however, has another County Contract currently in effect and has previously provided this information to the County within the last year, it is not necessary for Contractor to re-submit these statements and verification under this Agreement.

(ii) Non-profit Contractors whose contract with the County includes services that will be reimbursed, partially or in full, with Federal funds are also governed by the OMB Super Circular and are required to have a single or program-specific audit conducted if the Contractor has expended \$500,000 or more in Federal awards made on or before December 26, 2014, or \$750,000 or more in Federal awards made after December 26, 2014, during Contractor's fiscal year. Any Contractor who is required to complete an annual Single Audit must submit a copy of their annual audit report and audit findings to County at the address listed in "Notice & Identification" §33 on page one (1) of the executed contract within the earlier of thirty (30) days after the Contractor's receipt of the auditor's report or nine (9) months following the end of the Contractor's fiscal year.

**28. Intellectual Property:**

All original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Contractor, shall be the property of County, and upon fifteen (15) days demand therefore, shall be promptly delivered to County without exception. Provided however, for personal purposes only and not for commercial, economic or any other purpose, Contractor may retain a copy of Contractor's work product hereunder.

**29. Entire Agreement:**

This Contract represents the entire agreement of the parties, and no representations have been made or relied upon except as set forth herein. This Contract may be amended or modified only by written, fully executed agreement of the parties.

**30. Jurisdiction and Venue:**

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

**31. Compliance with Applicable Laws:**

The Contractor shall comply with any and all federal, state and local laws, codes, ordinances, rules and regulations which relate to, concern or affect the Services to be provided by this Contract. If a CFDA number is designated at §33, page one (1), of this Contract then the applicable CFDA funding agreement requires that this Contract shall also be governed by and construed in accordance with all applicable laws, regulations and contractual obligations set forth in the applicable CFDA funding agreement. Contractor shall comply with all terms and conditions of the applicable CFDA funding agreement and all other applicable Federal, state and local laws, regulations, and policies governing the funding for this Contract. A full copy of the applicable CFDA funding agreement is available for review at the Health and Human Services Agency Administration Office.

**32. Confidentiality:**



Contractor, its employees, agents and or subcontractors may come in contact with documents that contain information regarding matters that must be kept confidential by the County, including personally identifiable patient or client information. Even information that might not be considered confidential for the usual reasons of protecting non-public records should be considered by Contractor to be confidential.

Contractor agrees to maintain confidentiality of information and records as required by applicable federal, state, and local laws, regulations and rules and recognized standards of professional practice.

Notwithstanding any other provision of this Agreement, the Contractor agrees to protect the confidentiality of any confidential information with which the Contractor may come into contact in the process of performing its contracted services. This information includes but is not limited to all written, oral, visual and printed patient or client information, including but not limited to: names, addresses, social security numbers, date of birth, driver's license number, case numbers, services provided, social and economic conditions or circumstances, agency evaluation of personal information, and medical data.

The Contractor shall not retain, copy, use, or disclose this information in any manner for any purpose that is not specifically permitted by this agreement. Violation of the confidentiality of patient or client information may, at the option of the County, be considered a material breach of this Agreement.

**33. Notices:**

This Contract shall be managed and administered on County's behalf by the department and the person set forth at "Notice & Identification" §33 page one (1) of this Contract, and all invoices shall be submitted to and approved by this Department. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed as set forth at said §33 of page one (1) of this Contract. Said notices shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

**34. Authority:**

All individuals executing this Contract on behalf of Contractor represent and warrant that they are authorized to execute and deliver this Contract on behalf of Contractor.

**IN WITNESS WHEREOF**, the parties have executed this Contract effective on the Beginning Date, above.

**CONTRACTOR:**

**COUNTY OF NEVADA:**

\_\_\_\_\_  
Kandice Merrill  
Area Vice President

\_\_\_\_\_  
Heidi Hall  
Chair, Board of Supervisors

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_  
Julie Patterson-Hunter  
Clerk of the Board of Supervisors

**EXHIBIT “A”**  
**SCHEDULE OF SERVICES**  
**RECORDXPRESS OF CALIFORNIA, LLC**  
**d/b/a ACCESS INFORMATION MANAGEMENT**

RecordXpress of California, LLC d/b/a Access Information Management, hereinafter referred to as Contractor, shall provide a continuing “Services” Plan for the cataloguing of closed and discontinued records for Nevada County’s Health and Human Services Agency (HHS). (HHS).

**DESCRIPTION OF SERVICES:**

Contractor shall provide the following Services (collectively the “Services” Plan), and will continue to provide the Plan, including: the coordinating and implementation of cataloging, by discontinued dates, and storage at Contractor’s facility(ies), of Nevada County Department of Social Services Eligibility, Adult Protective Services, Child Protective Services, HHS Housing Programs, Health and Human Services Contracts Unit, and Health and Human Services Administration inactive, closed and archival records. This would include the furnishing of all storage space, equipment, labor, software and training.

**PERFORMANCE OF SERVICES:**

The manner in which the services are to be performed and the specific hours to be worked by Contractor shall be determined by Contractor. Nevada County will rely on Contractor to work as many hours as may be reasonable necessary to fulfill Contractor’s obligation under this Agreement.

County shall not at any time store with ACCESS any materials that would attract insects or vermin, are highly flammable, explosive, toxic, radioactive, dangerous or illegal to store, or that are otherwise deemed by ACCESS to represent a hazard (“Prohibited Materials”). ACCESS reserves the right, but is not obligated to, inspect any Records and may refuse to accept and/or remove and redeliver to County any Prohibited Materials. County shall also not store with ACCESS any negotiable instruments, art, jewelry, cash or other items that have intrinsic market value.

**FACILITY EQUIPPED WITH THE FOLLOWING:**

Contractor shall provide and maintain in all storage areas the following safety features: Central Dispatch connected to the Fire and Police Departments. Smoke Detectors shall be installed in all storage areas and shall be the most sensitive on the market. Storage Areas shall meet all city fire regulations. All storage shall be a minimum of eight inches off the ground. Storage Areas shall be equipped with motion detectors on all perimeters, security pad entrances and exterior flood lighting.

## **RECORDS MANAGEMENT SERVICES SUPPLEMENTAL TERMS AND CONDITIONS**

### **1. STORAGE AND RELATED SERVICES**

HHSA hereby engages CONTRACTOR to store and provide services in connection with (collectively, "Storage Services") HHSA's documents, media, open shelf storage, digital images and records and other deposit items (collectively, the "Records") subject to the terms and conditions of the Records Management Supplemental Terms and Conditions, made part of the Agreement. By providing any Records to CONTRACTOR or receiving Services from CONTRACTOR, HHSA accepts the terms of the Records Management Supplemental Terms and Conditions.

### **2. DESTRUCTION SERVICES**

Destruction of Records in Storage - CONTRACTOR may provide services for the secure destruction of Records ("Destruction Services" and, collectively with Storage Services, the "Services") held in storage by CONTRACTOR if requested by HHSA. If HHSA requests, CONTRACTOR will furnish a Certificate of Destruction to HHSA.

### **3. DOCUMENT IMAGING AND ELECTRONIC STORAGE**

In the event HHSA requests that CONTRACTOR provide document imaging, SAAS products or other digital services, the Parties shall execute the applicable addendum and attachments thereto.

### **4. OTHER TERMS FOR RECORD STORAGE, CONTRACTOR AND DELIVERY**

- A. CONTRACTOR reserves the right to re-box or refuse any Records not received in a condition suitable for rack storage.
- B. CONTRACTOR is not and shall not be deemed a contract or common carrier for any purpose. The pricing, valuation and liability provisions of this Agreement reflect that status, and shall apply to transportation services provided by CONTRACTOR.
- C. HHSA agrees that any failure or delay in CONTRACTOR delivering Records or providing other Services within a reasonable period of time shall not constitute a breach of this Agreement or a conversion of goods, nor subject CONTRACTOR to any liability, when such failure or delay results directly or indirectly from any act of God (earthquakes, floods, fires, etc.), communication or power system failures, labor disputes, unusual traffic delays or other reason beyond CONTRACTOR' reasonable control.
- D. HHSA acknowledges that only designated employees of HHSA shall have full authority on behalf of HHSA to order or request any Services. HHSA will instruct Supplier in writing of authorized staff that may request to retrieve or deposit records. HHSA specifically authorizes Supplier when performing deliveries to leave Records with any HHSA Postal Service representative, e.g. receptionist, who greets the Supplier courier, even if HHSA representative may not be an authorized representative.
- E. Supplier shall have the right to seek clarification from County without liability when Supplier is doubtful as to a requesting Party's authority, or when HHSA's instructions are not complete to Supplier' satisfaction. Any order for Services

placed via Supplier' web-based inventory program shall be deemed a valid order placed by an individual with authority to act on behalf of HHSA.

- F. Itemized lists or descriptions of contents of Records submitted to CONTRACTOR or entered by HHSA in CONTRACTOR's inventory programs shall be considered for HHSA's recordkeeping and reference purposes only and shall not be considered proof that any documents referenced in such lists or descriptions are in fact included in the Records stored at CONTRACTOR.
- G. Any changes to HHSA's locations, Authorization List, and service schedules must be communicated in writing to Supplier, and accepted by Supplier in writing, in order to be effective.

## 5. REPRESENTATIONS AND WARRANTIES

HHSA represents and warrants that: (A) it is the owner or legal custodian of all Records and has full authority to store said Records without any restrictions, in accordance with the terms of this Agreement; (B) it has the right to authorize the destruction of the Records for which HHSA requests such destruction; (C) unless HHSA has informed CONTRACTOR in writing otherwise, HHSA is not a "Covered Entity" or "Business Associate" as defined in 45 CFR Part 160. At such time as HHSA may become a Covered Entity or Business Associate (if ever), then in the absence of a separate agreement, the terms of the Business Associate Agreement (or Business Associate Subcontractor Agreement if applicable) found at [www.accesscorp.com/baa](http://www.accesscorp.com/baa) shall be and are specifically incorporated herein by reference and are binding upon the Parties as if fully set forth herein; (D) unless CLIENT has informed ACCESS in writing otherwise, neither CLIENT nor its Records are subject to the EU General Data Protection Regulation ("GDPR"). At such time as CLIENT's Records become subject to GDPR (if ever), then in the absence of a separate agreement, the terms of the GDPR Data Processing Addendum found at [www.accesscorp.com/gdpr\\_terms](http://www.accesscorp.com/gdpr_terms) shall be and are specifically incorporated herein by reference and are binding upon the Parties as if fully set forth herein; and (E) none of its Records require protection from foreign persons because they contain technical information regarding defense articles and services within the meaning of ITAR/EAR, the International Traffic in Arms Regulations or technical data within the meaning of the Export Administration Regulations. If any Records do contain such information, CLIENT shall notify ACCESS of the specific Records that contain such information and acknowledges that special storage and service rates shall apply thereto HHSA hereby releases CONTRACTOR from any Costs arising from or relating to the breach of HHSA's representations and warranties in this Paragraph 5. Except as expressly provided in this Agreement, CONTRACTOR provides all Services AS IS, AS Available and With All Faults, and CONTRACTOR expressly disclaims any and all representations and warranties, including any warranty of suitability, or fitness for a particular purpose, or arising out of a course of dealing.

RATES AND PAYMENT

## 6. INTEGRATED AGREEMENT

HHSA Contract, Records Management Supplemental Terms and Conditions, Schedule "A" Price Schedule, along with any signed addendums hereto, constitutes the entire agreement ("Agreement") of the Parties hereto and supersedes and

replaces any other agreement (oral or written), proposal or understanding. Where any of the terms and conditions in the Records Management Supplemental Terms and Conditions are in conflict with the HHS Contract, HHS Purchase Order or HHS Terms and Conditions and cannot be read in any way to be compatible, those in the Records Management Supplemental Terms and Conditions shall prevail. No term or condition on any HHS's Purchase Order or any other instrument, agreement or understanding shall be binding upon CONTRACTOR unless specifically agreed to by CONTRACTOR in writing physically signed in ink by an authorized representative of CONTRACTOR.

If any provision of this Agreement is determined to be illegal or otherwise unenforceable by a court of competent jurisdiction then, to that extent it shall be limited, or severed and deleted from this Agreement, and the remaining portions hereof shall survive, remain in full force and effect and shall be interpreted to give effect to the intention of the Parties. The failure of either Party to exercise any of its rights under this Agreement or to require the performance of any term or provision of this Agreement, or the waiver by either Party of a breach of this Agreement, shall not prevent a subsequent exercise or enforcement of such rights or be deemed a waiver of any subsequent breach of the same or any other term or provision of this Agreement.

**EXHIBIT “B”**  
**SCHEDULE OF CHARGES AND PAYMENTS**  
**RECORDXPRESS OF CALIFORNIA, LLC**  
**d/b/a ACCESS INFORMATION MANAGEMENT**

In no event shall the cost to County for the satisfactory performance of these services provided herein exceed the maximum sum of \$50,000 for the contract term July 1, 2019 through June 30, 2021, with the maximum contract obligation not to exceed \$25,000 per fiscal year, including direct non-salary expenses.

County shall reimburse Contractor for services according to the attached “Rate Sheet” incorporated herein as “Schedule A”.

HHSA agrees to pay to CONTRACTOR charges for Services as set forth in the attached price schedule(s) (the “Price Schedule”) and any applicable Statement(s) of Work, all of which are incorporated herein by reference. Time is of the essence for all payments. CONTRACTOR may amend pricing and Services in the Price Schedule from time to time in its discretion thirty (30) days after notice of any change is sent to HHSA, provided that Storage and Service charges are fixed for the first twenty-four (24) months following the Agreement Effective Date. Notice under Exhibit “A”, Paragraph 6 may be sent by email, fax or first-class mail to an employee or representative of HHSA. Rates are calculated based upon cubic footage, taking into consideration displacement of space in the storage shelving, and do not reflect an exact measurement of all stored items, but rather an agreed measurement between CONTRACTOR and HHSA for billing purposes. Records stored for a partial calendar month will be billed and payable on the basis of a full month. Software subscription/license fees and Storage charges are billed monthly in advance. Service charges are billed in arrears. Payment for all charges is due in full within thirty (30) days from the date of each CONTRACTOR invoice. HHSA must give written notice of any dispute with any charge in an invoice within thirty (30) days from the date of the invoice and must pay the undisputed portion of the invoice with its notice or it will have waived the right to dispute the charge. Any disputed amounts resolved in favor of HHSA will be credited to HHSA’s account, and amounts payable to CONTRACTOR will be paid within fifteen (15) days of dispute resolution. Payments received may be applied to the oldest invoices due. Amounts not paid by HHSA when due shall accrue interest at the lesser of 18% per annum, compounded monthly, or the maximum amount allowed by applicable law.

**BILLING AND PAYMENT**

Contractor shall submit to County, for services rendered in the prior month, and in accordance with the rates in Schedule A, a statement of services rendered to County, including the breakdown according to programs, i.e., Eligibility, Contracts, Adult Protective Services, Child Protective Services, Housing, and Health and Human Services Administration and costs incurred that includes documentation to support all expenses claimed by the 20<sup>th</sup> of each month. County shall review the billing and notify the Contractor within fifteen (15) working days if an individual item or group of costs is being questioned. Contractor has the option of either removing the questioned cost or delaying the entire claim pending resolution of the cost(s). Payments of approved billing

shall be made within thirty (30) days of receipt of a complete, correct, and approved billing.

**BILLING PROCESS EXCEPTION**

By the tenth of June each year, Contractor shall provide an invoice for services rendered for the month of May. An invoice of services provided for the month of June shall be provided no later than the tenth of July.



**Schedule A**  
**NEVADA COUNTY - HEALTH & HUMAN SERVICES AGENCY**  
**Account SC0S2050**

<b>Record Center Storage</b>	HC-Large Container	\$0.2500 Per Cubic Foot Per 30 Days	
	HC-1.2 Cubic Foot Container	\$0.2500 Per Cubic Foot Per 30 Days	
	Minimum Storage	\$52.5000 Per Invoice Per 30 Days	
<b>Record Center Services</b>	Add New Container	\$1.4000 Per Cubic Foot	
	Add File	\$1.2296 Per Item	
	Retrieve Container	\$1.6282 Per Cubic Foot	
	Retrieve Container - Expedited (Priority Surcharge)	\$1.8763 Per Cubic Foot	
	Refile/Shelve Container	\$1.6381 Per Cubic Foot	
	Shelve New Container	\$1.7500 Per Cubic Foot	
	Retrieve Filefolder-Per File	\$1.9000 Per Item	
	Retrieve File - Expedited (Priority Surcharge)	\$1.8734 Per Item	
	Refile File	\$1.9000 Per Item	
	File Not Found	\$4.6606 Per Item	
	Permanently Remove Container	\$8.5600 Per Cubic Foot plus retrieval	
	Permanently Remove Container	\$3.0094 Per Item plus retrieval	
	Destroy Container	\$6.2036 Per Cubic Foot plus retrieval	
	Certified Destruction - File	\$3.1001 Per Item plus retrieval	
	<b>Transportation Services</b>	Standard Delivery or Pickup-Base Rate	\$26.0000 Per Trip
Delivery / Pickup Container		\$1.7500 Per Cubic Foot	
Filefolder Delivery		\$1.5000 Per Item	
Same Day Delivery / Pickup		\$26.7821 Per Trip	
Rush Delivery		\$97.1122 Per Trip	
Emergency (After Hours) Delivery		\$237.8900 Per Trip	
Delivery / Pickup Container - Priority Surcharge		\$0.8952 Per Cubic Foot	
Delivery / Pickup Filefolder - Priority Surcharge		\$0.5727 Per Item	
<b>Additional Services</b>		Standard 1.2 Cubic Foot Container	\$2.9443 Per Item
		Repacking of Damaged Container	\$5.1059 Each plus cost of new container
	Index File / Data Entry	\$0.6341 Per Item	
	Individual Listing of Files - Indexing to Container	\$0.6293 Per Item	
	File Tracking	\$0.0100 Per File	
	Dock Access	\$2.3498 Per Cubic Foot	
	Invalid Request	\$4.6028 Per Item	
	Cancelled Request	\$4.3320 Per Item	
	Wait time (Per Quarter Hr)	\$28.7583 Each	
	Labor - Container 2	\$65.0300 Per Hour	
	Electronic Transfer / Digital Document Delivery	\$0.4318 Per Page	
	Minimum Work Order Charge	\$9.7065 Each	
	Phone- Fax- Email Order-Client	\$15.5666 Per Order	
	Monthly Administration Charge (per invoice)	\$15.0000 Per Invoice	
	Monthly Administration Fee	\$50.0000 Per Invoice	
	Administration Charge (Detailed by Department) / Hardcopy and mixed accounts	\$50.0000 Per Invoice	
	AccessNotifi Breach Response Services provided by Vero	\$34.3227 Each	
	Permanent Removal - Account Termination	\$7.0361 Per Cubic Foot plus retrieval and dock access	
	Dock Access for account termination per cubic foot	\$2.2369 Per Cubic Foot	

\* Storage charges are billed in advance, services billed in arrears.

\* Retrievals are limited to 50 items per day or additional fees may apply.

\*

\* Any services not quoted will be charged at the standard rates which are available upon request



## EXHIBIT "C"

### SCHEDULE OF CHANGES

(Personal Services Contract - Mental Health)

#### BEHAVIORAL HEALTH PROVISIONS

Where Exhibit "C" revises the language in the Personal Services Contract, the provisions of Exhibit C shall govern and supersede any inconsistent provisions.

1. Section 33, Notices, is revised to the following:

"All notices and claims under this Agreement, other than routine requests for Storage Services and notices under Paragraph 6, shall be in writing and delivered either personally or by registered or by certified mail, postage prepaid, or by recognized overnight courier service to the address set forth below the signature on this Agreement or at such other place as either of the Parties may from time to time designate in writing in a notice given in accordance with this provision. Notice shall be effective on the date of actual personal service or the third business day after the postmark on the registered or certified mail, as the case may be, or on the date of delivery to such address if sent by recognized overnight courier service. This Agreement binds the heirs, executors, successors and assigns of the respective Parties, provided that this Agreement may not be assigned by HHS (other than to an affiliate which shall assume the obligations of its assignor by written instrument) without the written consent of CONTRACTOR, which shall not be unreasonably withheld."

Sections 35 through 38 are hereby added to read as follows:

#### **35. Laws, Statutes, and Regulations:**

A. Contractor agrees to comply with the Bronzan-McCorquodale Act (Welfare and Institutions Code, Division 5, 6, and 9, Section 5600 et seq. and Section 4132.44), Title 9 and Title 22 of the California Code of Regulations, Title XIX of the Social Security Act, State Department of Health Care Services Policy Letters, and Title 42 of the Code of Federal Regulations, Sections 434.6 and 438.608 which relate to, concern or affect the Services to be provided under this Contract.

B. Clean Air Act and Federal Water Pollution Control:  
Contractor shall comply with the provisions of the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended, which provides that contracts and subcontracts of amounts in excess of \$100,000 shall contain a provision that the Contractor and Subcontractor shall comply with all applicable standards, orders or regulations issues pursuant to the Clean Air Act and the Federal Water Pollution Control Act. Violations shall be reported to the Centers for Medicare and Medicaid Services.

C. For the provision of services as provided herein, Contractor shall not employ or contract with providers or other individuals and entities excluded from participation in Federal Health Care Programs under either Section 1128 or 1128A of the Social Security Act and shall screen all individuals and entities employed or retained to provide services for eligibility to participate in Federal Health Care programs (see <http://oig.hhs.gov/exclusions/index.asp> and <http://files.medical.ca.gov/pubsdoco/SandILanding.asp>). The Contractor shall check monthly and immediately report to the department if there is a change of status.

D. Ownership: Contractor shall provide written verification of compliance with CFR, Title 42, sections 455.101 and 455.104. This verification will be provided to Nevada County Behavioral Health (NCBH) by December 31 of each year and when prescribed below.

(a) Who must provide disclosures. The Medi-Cal agency must obtain disclosures from disclosing entities, fiscal agents, and managed care entities. Contractor and any of its subcontractors/network providers providing services pursuant to this Agreement shall submit the disclosures below to Nevada County Behavioral Health regarding the network providers' (disclosing entities') ownership and control. The Contractor's network providers must submit updated disclosures to Nevada County Behavioral Health upon submitting the provider application, before entering into or renewing the network providers' contracts, and within 35 days after any change in the provider's ownership and/or annually.

(b) Disclosures to be provided:

1. The name and address of any person (individual or corporation) with an ownership or control interest in the disclosing entity, fiscal agent, or managed care entity. The address for corporate entities must include as applicable primary business address, every business location, and P.O. Box address.
2. Date of birth and Social Security Number (in the case of an individual).
3. Other tax identification number (in the case of a corporation) with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) or in any subcontractor in which the disclosing entity (or fiscal agent or managed care entity) has a five (5) percent or more interest.
4. Whether the person (individual or corporation) with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the disclosing entity (or fiscal agent or managed care entity) has a five (5) percent or more interest is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling.
5. The name of any other disclosing entity (or fiscal agent or managed care entity) in which an owner of the disclosing entity (or fiscal agent or managed care entity) has an ownership or control interest.
6. The name, address, date of birth, and Social Security Number of any managing employee of the disclosing entity (or fiscal agent or managed care entity).

(c) When the disclosures must be provided.

I. Disclosures from providers or disclosing entities. Disclosure from any provider or disclosing entity is due at any of the following times:

- i) Upon the provider or disclosing entity submitting the provider application.
- ii) Upon the provider or disclosing entity executing the provider agreement.
- iii) Upon request of the Medi-Cal agency during the re-validation of enrollment process under § [455.414](#).
- iv) Within 35 days after any change in ownership of the disclosing entity.

II. Disclosures from fiscal agents. Disclosures from fiscal agents are due at any of the following times:

- i) Upon the fiscal agent submitting the proposal in accordance with the State's procurement process.
- ii) Upon the fiscal agent executing the contract with the State.
- iii) Upon renewal or extension of the contract.
- iv) Within 35 days after any change in ownership of the fiscal agent.

III. Disclosures from managed care entities. Disclosures from managed care entities (MCOs, PIHPs, PAHPs, and HIOs), except PCCMs are due at any of the following times:

- i) Upon the managed care entity submitting the proposal in accordance with the State's procurement process.

- ii) Upon the managed care entity executing the contract with the State.
  - iii) Upon renewal or extension of the contract.
  - iv) Within 35 days after any change in ownership of the managed care entity.
- IV. Disclosures from PCCMs. PCCMs will comply with disclosure requirements under paragraph (c)(1) of this section.
- (d) To whom must the disclosures be provided. All disclosures must be provided to the Med-Cal agency.
  - (e) Consequences for failure to provide required disclosures. Federal financial participation (FFP) is not available in payments made to a disclosing entity that fails to disclose ownership or control information as required by this section.

E. Contractor shall have a method to verify whether services billed to Medi-Cal were actually furnished to Medi-Cal beneficiaries. The Contractor's verification method shall be based on random samples and will specify the percentage of total services provided that shall be verified. The Contractor's verification process shall be submitted to and approved by the NCBH Quality Assurance Manager. Contractor will report the outcome of service verification activities to the NCBH Quality Assurance Manager quarterly.

### **36. Client/Patient Records:**

Where this contract is for services relating to the mental health or the medical needs or condition of clients or patients:

A. HEALTH RECORDS: Contractor shall maintain adequate mental and/or medical health records of each individual client/patient which shall include a record of services provided by the various professional personnel in sufficient detail to make possible an evaluation of services, and which shall contain all necessary data as required by the Department of Behavioral Health and state or federal regulations, including but not limited to records of client/patient interviews and progress notes.

B. TREATMENT PLAN: Contractor shall also maintain a record of services provided, including the goals and objectives of any treatment plan and the progress toward achieving those goals and objectives. County shall be allowed to review all client/patient record(s) during site visits, or at any reasonable time. Specialized mental health services provided by Contractor shall be in accordance and as defined by the California Code of Regulation Title 9, Chapter 11, and in compliance with Nevada County's Mental Health Plan (MHP).

C. LOCATION / OWNERSHIP OF RECORDS: If Contractor works primarily in a County facility, records shall be kept in the County's facility and owned by County. If Contractor works in another facility or a school setting, the records shall be owned and kept by Contractor and upon demand by County, a copy of all original records shall be delivered to County within a reasonable time from the conclusion of this Contract.

D. CONFIDENTIALITY: Such records and information shall be maintained in a manner and pursuant to procedures designed to protect the confidentiality of the client/patient records. Contractor agrees to maintain confidentiality of information and records as required by applicable federal, state and local laws, regulations and rules, and recognized standards of professional practice and further agrees to hold County harmless from any breach of confidentiality.

E. RETENTION OF RECORDS: Except as provided below, Contractor shall maintain and preserve all clinical records related to this Contract for seven (7) years from the date of discharge for adult clients, and records of clients under the age of eighteen (18) at the time of treatment must be retained until either one (1) year beyond the clients eighteenth (18th) birthday or for a period of seven (7) years from the date of discharge, whichever is later. Psychologists' records involving minors must be kept until the minor's 25<sup>th</sup> birthday. Contractor shall also contractually require the maintenance of such records in the possession of any third party performing work related to this contract for the same period of time. Such records shall be retained beyond the seven year period, if any audit involving such records is then pending, until the audit

findings are resolved. The obligation to ensure the maintenance of the records beyond the initial seven year period shall arise only if the County notifies Contractor of the commencement of an audit prior to the expiration of the seven year period.

To the extent Contractor is a Managed Care Organization (MCO), a Prepaid Inpatient Health Plan, a Prepaid Ambulatory Health Plan (PAHP), or a Medi-Cal services provider, Contractor shall maintain and preserve all records related to this contract for ten (10) years from the start date of this contract, pursuant to CFR 42 438.3(u). If the client or patient is a minor, the client's or patient's health service records shall be retained for a minimum of ten (10) years from the close of the state fiscal year in which the Contract was in effect, or the date the client or patient reaches 18 years of age, whichever is longer, regardless of when services were terminated with the client. Health service records may be retained in either a written or an electronic format. Contractor shall also contractually require the maintenance of such records in the possession of any third party performing work related to this contract for the same period of time. Such records shall be retained beyond the ten (10) year period if any audit involving such records is then pending, and until the audit findings are resolved. The obligation to ensure the maintenance of the records beyond the initial ten (10) year period shall arise only if the County notifies Contractor of the commencement of an audit prior to the expiration of the ten (10) year period.

F. REPORTS: Contractor shall provide reports to County from time to time as necessary, and as reasonably requested by County. Contractor agrees to provide County with reports that may be required by County, State or Federal agencies for compliance with this Agreement.

G. COPIES OF RECORDS: Upon termination of this Contract, Contractor agrees to cooperate with client/patients, County and subsequent providers with respect to the orderly and prompt transfer of client or patient records. This Contract does not preclude Contractor from assessing reasonable charges for the expense of transferring such records if appropriate. Said charges shall be twenty-five Cents (\$0.25) per page, plus the cost of labor, not to exceed Sixteen Dollars (\$16.00) per hour or pro rata fraction thereof, for actual time required to photocopy said records.

H. CULTURAL COMPETENCE: Contractor shall provide services pursuant to this Agreement in accordance with current State statutory, regulatory and policy provisions related to cultural and linguistic competence as defined in the Department of Health Care Services (DHCS) most recent Information Notice(s) regarding Cultural Competence Plan Requirements (CCPR), that establish standards and criteria for the entire County Mental Health System, including Medi-Cal services, Mental Health Services Act (MHSA), and Realignment as part of working toward achieving cultural and linguistic competence. The CCPR standards and criteria as cited in California Code of Regulations, Title, 9, Section 1810.410, are applicable to organizations/agencies that provide mental health services via Medi-Cal, Mental Health Services Act (MHSA), and/or Realignment.

I. PATIENTS' RIGHTS: Patients' Rights shall be in compliance with Welfare and Institutions Code Division 5, Section 5325 et seq.; and California Code of Code of Regulations, Title 9, Section 862 et seq and Tile 42, Code of Federal Regulations (CFR), Section 438.100.

J. HOURS OF OPERATION: Pursuant to Title 42 CFR, Section 438.206 (c)( 1)(ii) if Contractor also serves individuals who are not Medi-Cal beneficiaries, the Contractor shall require that the hours of operation during which the Contractor offers services to Medi-Cal beneficiaries are no less than and comparable to the hours of operation during which the Contractor offers services to non-Medi-Cal beneficiaries.

K. WRITTEN MATERIALS: Contractor shall ensure that all written materials it provides or is otherwise required to make available to the client, including, but not limited to, all documents requiring signature or authorization of the client, shall be in a minimum of 12 point font, and a minimum of 18 point font for written materials required to be in large print, including but not limited to any Contractor Brochures, Consent to Treatment, Treatment Plans, etc.

**37. 42 C.F.R. Laws and Regulations:** Managed care organization (MCO) Prepaid inpatient health plan (PIHP) Prepaid ambulatory health plan (PAHP)

To the extent Contractor is a Managed Care Organization (MCO), a Prepaid Inpatient Health Plan (PIHP), a Prepaid Ambulatory Health Plan (PAHP), Primary Care Manager (PCCM), a Primary Care Case Manager (PCCM) or a Medi-Cal Services Provider, Contractor shall comply with, and report to County any violation of or non-compliance with, the following requirements and restrictions:

A. DEBARRED, SUSPENDED, CONTRACTORS: Pursuant to 42 C.F.R. § 438.610, Contractor shall not knowingly have a relationship with the following:

- (a) An individual or entity that is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549.
- (b) An individual or entity who is an affiliate, as defined in the Federal Acquisition Regulation at 48 CFR 2.101, of a person described in this section.

B. EMPLOYING/CONTRACTING WITH PROVIDERS WHO ARE EXCLUDED: Pursuant to 42 C.F.R. § 438.214(d), Contractor shall not employ or contract with providers or other individuals and entities excluded from participation in federal health care programs (as defined in section 1128B(f) of the Social Security Act) under either Section 1128, 1128A, or 1156 of the Social Security Act. FFP is not available for amounts expended for providers excluded by Medicare, Medicaid, or the State Children's Health Insurance Program, except for emergency services.

The types of relationships prohibited by this section, are as follows:

- (a) A director, officer, or partner of the Contractor.
- (b) A subcontractor of the Contractor, as governed by 42 CFR §438.230.
- (c) A person with beneficial ownership of 5 percent or more of the Contractor's equity.
- (d) A network provider or person with an employment, consulting, or other arrangement with the Contractor for the provision of items and services that are significant and material to the Contractor's obligations under this Agreement.
- (e) The Contractor shall not employ or contract with, directly or indirectly, such individuals or entities for the furnishing of health care, utilization review, medical social work, administrative services, management, or provision of medical services (or the establishment of policies or provision of operational support for such services).

If the County finds that Contractor is not in compliance, the County:

- (a) Shall notify the Secretary of State of the noncompliance; and
- (b) May continue an existing agreement with Contractor unless the Secretary directs otherwise, which shall serve as a basis to immediately terminate this Agreement; or
- (c) May not renew or otherwise extend the duration of an existing agreement with Contractor unless the Secretary provides to the State and to Congress a written statement describing compelling reasons that exist for renewing or extending the agreement despite the prohibited affiliations.
- (d) Nothing in this section shall be construed to limit or otherwise affect any remedies available to the U.S. under sections 1128, 1128A or 1128B of the Act.

Unless specifically prohibited by this contract or by federal or state law, Contractor may delegate duties and obligations of Contractor under this contract to subcontracting entities if Contractor determines that the subcontracting entities selected are able to perform the delegated duties in an adequate manner in compliance with the requirements of this contract.

Contractor shall maintain ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of its contract with the County, notwithstanding any relationship(s) that the Mental Health Plan may have with any subcontractor.

C. RECOVERY OF OVERPAYMENTS: Contractor is responsible for the refund of any overpayments and shall notify County **within 30 calendar days** when it has identified payments in excess of amounts specified for reimbursement of Medicaid services authorized under this Agreement.

County shall maintain the right to suspend payments to Contractor when County determines there is a credible allegation of fraud.

Contractor shall comply with the County's retention policies for the treatment of recoveries of all overpayments from the Contractor, including specifically the retention policies for the treatment of recoveries of overpayments due to fraud, waste, or abuse.

D. REASONABLE ACCESS & ACCOMMODATIONS: Contractor shall ensure that it provides physical access, reasonable accommodations, and accessible equipment for Medicaid enrollees with physical or mental disabilities. [42 CFR 438.206(c)(3)].

E. BENEFICIARY'S RIGHTS: Contractor shall inform Medi-Cal Beneficiaries of their following rights:

- Beneficiary grievance, appeal, and fair hearing procedures and timeframes as specified in 42 CFR 438.400 through 42 CFR 438.424.
- The beneficiary's right to file grievances and appeals and the requirements and timeframes for filing.
- The availability of assistance to the beneficiary with filing grievances and appeals.
- The beneficiary's right to request a State fair hearing after the Contractor has made a determination on an enrollee's appeal, which is adverse to the beneficiary.
- The beneficiary's right to request continuation of benefits that the Contractor seeks to reduce or terminate during an appeal or state fair hearing filing, if filed within the allowable timeframes, although the beneficiary may be liable for the cost of any continued benefits while the appeal or state fair hearing is pending if the final decision is adverse to the beneficiary.

F. EXCLUSION LISTS AND STATUS: Contractor and any person with an ownership or control interest or who is an agent or managing employee of Contractor agrees to routine federal and state database checks pursuant to 42 C.F.R. 455.436 to confirm Contractor's identity and determining Contractor's exclusion status.

Consistent with the requirements of 42 C.F.R. §455.436, the Contractor must confirm the identify and determine the exclusion status of all providers (employees and network providers) and any subcontractor, as well as any person with an ownership or control interest, or who is an agent of managing employee of the of the Mental Health Plan through routine checks of Federal and State databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the Office of Inspector General's List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), as well as the Department's Medi-Cal Suspended and Ineligible Provider List (S & I List).

If the Contractor finds that a party is excluded, it must promptly notify the County and take action consistent with 42 C.F.R. §438.610(c). The Contractor shall not certify or pay any provider with Medi-Cal funds, and any such inappropriate payments or overpayments may be subject to recovery and/or be the basis for other sanctions by the appropriate authority.

G. SERVICE VERIFICATIONS: Pursuant to 42 C.F.R. § 438.608(a)(5), the Contractor, and/or any subcontractor, to the extent that the subcontractor is delegated responsibility by the Contractor for coverage of services and payment of claims under this Agreement, shall implement and maintain arrangements or procedures that include provisions to verify, by sampling or other methods, whether services that have been represented to have been delivered by network providers were received by enrollees and the application of such verification processes on a regular basis.

**38. Additional Contractor Responsibilities:**

- A. To the extent Contractor is a mandated reporter of suspected child and/or dependent adult abuse and neglect, it shall ensure that its employees, agents, volunteers, subcontractors, and independent contractors are made aware of, understand, and comply with all reporting requirements. Contractor shall immediately notify County of any incident or condition resulting in injury, harm, or risk of harm to any child or dependent adult served under this Agreement.
- B. Contractor will immediately notify County of any active complaints, lawsuits, licensing or regulatory investigations, reports of fraud or malfeasance, or criminal investigations regarding its operations. Contractor agrees to work cooperatively with County in response to any investigation commenced by County with regard to this Agreement or the clients served herein, including providing any/all records requested by County related thereto.
- C. Contractor shall employ reasonable background check procedures on all employees, prospective employees, volunteers and consultants performing work involving direct contact with minor children or dependent adults under this Agreement, including fingerprinting and criminal records checks, sexual offender registry checks, and reference checks, including both personal and professional references.

COUNTY OF NEVADA  
Approved as to Form

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County Counsel

**EXHIBIT “D”**

**SCHEDULE OF HIPAA PROVISIONS  
FOR COVERED ENTITY CONTRACTORS**

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA):  
HEALTH CARE PROVIDER AGREEMENT

Contractor acknowledges that it is a “health care provider” and therefore is a Covered Entity, for purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH) and therefore is directly subject to the privacy, security and breach notification requirements therein and the civil and criminal penalties and shall implement its standards.

Contractor agrees to:

1. Use or disclose Protected Health Information (PHI) obtained from the County only for purposes of providing diagnostic or treatment services to patients.
2. Develop and maintain a written information privacy and security program that includes the designation of Privacy and Security Officer and establishes and maintains appropriate safeguards to prevent any use or disclosure of PHI other than as provided for by this agreement and applicable law. Safeguards shall include administrative, physical, and technical safeguards appropriate to the size and complexity of the Contractor’s operations and the nature and scope of its activities. Contractor will provide County with information concerning such safeguards as County may reasonably request from time to time.
3. Track disclosures and make available the information required to provide an accounting of disclosures if requested by the individual or County in accordance with 45 CFR §164.528.
4. Ensure sufficient training and utilize reasonable measures to ensure compliance with requirements of this agreement by Contractor’s workforce members who use or disclose PHI (in any form) to assist in the performance of functions or activities under this contract; and discipline such employees who intentionally violate any provisions of this agreement, including termination of employment. Workforce member training shall be documented and such documents retained for the period of this contract and made available to County for inspection if requested.
5. Take prompt corrective action in the event of any security incident or any unauthorized use or disclosure of Protected Health Information to cure any such deficiencies and to take any action required by applicable federal and state laws and regulations.



6. Report to County any security incident or any unauthorized use or disclosure of PHI (in any form). Security incidents include attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. Contractor shall make this report by the next business day following discovery of the use, disclosure, or security incident. Any unauthorized use or disclosure or security incident shall be treated as discovered by Contractor on the first day on which such use or disclosure or security incident is known to the Contractor, including any person, other than the individual committing the unauthorized use or disclosure or security incident, that is an employee, officer or other agent of the Contractor, or who should reasonably have known such unauthorized activities occurred.
7. Make Contractor's internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Contractor on behalf of COUNTY available to the County upon request. In addition, Contractor will make these items available to the Secretary of the United States Health and Human Services for purposes of determining County's or Contractor's compliance with HIPAA and its implementing regulations (in all events Contractor shall immediately notify County of any such request, and shall provide County with copies of any such materials).
8. Contractor agrees that this agreement may be amended from time to time by County if and to the extent required by the provision of 42 U.S.C. § 1171, et seq., enacted by HIPAA and regulations promulgated thereunder, in order to assure that this agreement is consistent therewith; and authorize termination of the agreement by County if County determines that Contractor has violated a material term of this agreement.
9. Ensure that Contractor will enter into "Business Associate Agreements" as required by HIPAA including provisions that the Business Associate agrees to comply with the same restrictions, conditions and terms that apply to the Contractor with respect to this agreement and with applicable requirements of HIPAA and HITECH. The Business Associate Agreement must be a written contract including permissible uses and disclosures and provisions where the Business Associate agrees to implement reasonable and appropriate security measures to protect the information (PHI or ePHI) it creates, receives, maintains or transmits on behalf of Contractor or County with respect to this agreement.