

**AGREEMENT FOR DEVELOPMENT  
OF COLLABORATIVE AND REGIONAL HEALTH AND HUMAN SERVICES**

DESCRIPTION:	Tahoe Program Manager
CONTRACT NO.	<b><u>HHS000979</u></b>
BEGINS:	July 1, 2024
ENDS:	June 30, 2025
ADMINISTERING AGENCY:	Health and Human Services, Adult System of Care

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This is an Agreement made at Auburn, California and operative as of the 1st day of July, 2024, by and between the COUNTY OF PLACER, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and the **County of Nevada**, a political subdivision of the State of California, hereinafter referred to as "PRIMARY EMPLOYER", who agrees as follows:

1. **SERVICES:** Subject to the terms and conditions set forth in this Agreement, PRIMARY EMPLOYER shall provide the services of a Health and Human Services Agency (HHS) Program Manager ("PROGRAM MANAGER") as further described herein and in Exhibit A.
2. **PAYMENT:** COUNTY shall pay PRIMARY EMPLOYER at an hourly rate of \$137.59 per hour for 100% of actual time worked for COUNTY plus 50% of total time worked on behalf of both counties, as tracked in PRIMARY EMPLOYER'S timekeeping system, not to exceed 40 productive hours per week, 40% of sick/vacation time, plus related approved expenses, for the services described in Exhibit A, for a total contract maximum amount not to exceed **ONE HUNDRED FORTY-THREE THOUSAND TWO HUNDRED TWENTY-ONE DOLLARS (\$143,221)** over the contract period. PRIMARY EMPLOYER shall also be reimbursed for mileage/travel, training, meals, and other project-related expenses attributable TO COUNTY in accordance with COUNTY'S current reimbursement rates/policies. Mileage, training, expenses, and other COUNTY-approved costs are included in this contract maximum and shall not exceed a total of **FIVE THOUSAND SIX HUNDRED THIRTY DOLLARS (\$5,630)**. PRIMARY EMPLOYER shall provide invoices to the COUNTY on a quarterly basis, within 30 days of the close of each quarter. Invoices shall include detail of costs being claimed during the billing period, including timecard data and mileage reports. COUNTY will review, approve, and pay all valid invoices within 30 days of receipt.

Invoices for payment shall be submitted to the following address, and shall include the contract number indicated on the first page of this Agreement, the PRIMARY EMPLOYER name and remittance address, and all additional specific information indicated herein:

Placer County HHS Fiscal  
Attn: Accounts Payable  
11434 B Ave, Suite 100  
Auburn, CA 95603

3. **EXHIBITS:** All exhibits referred to herein will be attached hereto and by this reference incorporated herein.
4. **TIME FOR PERFORMANCE:** Time is of the essence. Failure of PRIMARY EMPLOYER to perform any services within the time limits set forth herein shall constitute material breach of this Contract.
5. **AMENDMENTS:** This Agreement constitutes the entire Agreement between the parties. Any amendments or changes to this Agreement shall be agreed to in writing, specifying the change(s) and the effective date(s) and shall be executed by duly authorized representatives of both parties.
6. **CONTINGENCY OF FUNDING:**
  - 6.1. This Agreement is valid and enforceable only if the County of Placer, State and/or the United States government make sufficient funds available to the COUNTY for the purposes of this program. In addition, this Agreement is subject to any additional restrictions, limitations or

conditions enacted by the Congress or the State that may affect the provisions, terms, or funding of this Agreement in any manner.

- 6.2. It is mutually agreed that if the Congress, State, or County of Placer does not appropriate the same level of funding that was anticipated by COUNTY at the time this Agreement was initiated, or if funding amounts are modified at any time during the term of this Agreement, this Agreement may, at the discretion of COUNTY, be amended to reflect such changes in funding allocations.
- 6.3. COUNTY has the option to void the Agreement under the termination clause to reflect any reduction of funds.
- 6.4. Adjustments in funding shall be made through a written contract amendment and shall include any changes required to the Scope in response to modifications in funding. The amount of such adjustment shall not exceed any augmentation or reduction in funding to COUNTY by the County of Placer, State and/or the United States government. Amendments issued in response to adjustments in funding shall be considered fully executed when approved by the PRIMARY EMPLOYER and by the COUNTY. PRIMARY EMPLOYER understands that amendments to this Agreement may not reflect the entire amount of any augmentation or reduction in funding provided to COUNTY for the subject services.

7. **POLICIES:**

- 7.1. PROGRAM MANAGER of the PRIMARY EMPLOYER provided herein is not an independent contractor. PROGRAM MANAGER shall be an employee of PRIMARY EMPLOYER, and PRIMARY EMPLOYER shall be responsible for all of PROGRAM MANAGER'S compensation and benefits. PRIMARY EMPLOYER agrees that PROGRAM MANAGER, when performing duties pursuant to this Agreement, will adhere to all PRIMARY EMPLOYER'S applicable policies except as specifically provided in this Paragraph 7. PROGRAM MANAGER shall be provided a copy of this Agreement and execute an acknowledgement that he/she has received said copy. PROGRAM MANAGER shall, as exclusively provided in this Paragraph 7, be subject to the control and supervision of COUNTY regarding COUNTY employees and policies while performing work on behalf of COUNTY pursuant to this Agreement. PROGRAM MANAGER shall not have the authority to discipline or hire COUNTY employees but is expected to make recommendations to COUNTY regarding discipline and hiring. PROGRAM MANAGER shall be subject to the following Placer County Policies:
- 7.2. Placer County Administrative Rules Contained in the Placer Administrative Manual. These rules will apply to the PROGRAM MANAGER while performing work on behalf of COUNTY pursuant to this Agreement:
  - Meals, Lodging, Travel & Transportation Policy
  - Vehicle Policy
  - Exempt Employee Work Schedule Policy
  - Mobile Communication Devices Policy
  - Voicemail, Email, Internet & Computer Use Policy
  - Data Network Security Standards Policy
  - Drug & Alcohol Policy
  - Reasonable Accommodation Policy & Procedures
  - Workplace Discrimination, Harassment and Retaliation, Policy Against
  - Workplace Relationships Policy

- Workplace Violence, Policy Against
- Use of COUNTY Facilities Policy

Nevada County's Injury and Illness Prevention Program will apply to the PROGRAM MANAGER, including Worker's Comp and related claims.

PROGRAM MANAGER shall acknowledge in writing that she/he has been informed that the policies set forth in this section 7 apply to her/him and that he/she has been instructed as to their application by a member of the Placer County Human Resources Department and that she/he agrees to comply with these policies and understands that violations of said policies may be considered a breach of the Agreement between Placer and Nevada County and may lead to the termination of said Agreement.

8. **LICENSES, PERMITS, ETC.:** PRIMARY EMPLOYER represents and warrants to COUNTY that PROGRAM MANAGER has all licenses, permits, qualifications, and approvals of whatsoever nature, which are legally required for Employee to practice its profession. PRIMARY EMPLOYER represents and warrants to COUNTY that PRIMARY EMPLOYER shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for PROGRAM MANAGER to practice its profession at the time the services are performed.
9. **TIME:** PROGRAM MANAGER shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of PRIMARY EMPLOYER'S obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.
10. **INSURANCE:** It is agreed that PRIMARY EMPLOYER and COUNTY shall each maintain at all times during the performance of this Agreement insurance coverage or self-insurance in the amounts of not less than One Million Dollars (\$1,000,000) to cover all of its operations. Specifically, but not limited to, not less than One Million Dollars (\$1,000,000) general liability, One Million Dollars (\$1,000,000) automobile liability, One Million Dollars (\$1,000,000) workers' compensation, and One Million Dollars (\$1,000,000) professional liability (E&O).
11. **INDEMNITY:**

COUNTY agrees to indemnify and hold harmless PRIMARY EMPLOYER and PRIMARY EMPLOYER'S employees or agents from and against any damages including costs and attorney's fees arising out of negligent or intentional acts of omissions of COUNTY, its employees or agents.

PRIMARY EMPLOYER agrees to indemnify and hold harmless COUNTY, its employees, agents and elective and appointive boards from and against any damages including costs and attorney's fees arising out of negligent or intentional acts or omissions of PRIMARY EMPLOYER, its employees or agents.

This indemnification shall extend to claims, losses, damages, injury, and liability for injuries occurring after completion of COUNTY'S services, as well as during the progress of rendering such services. Acceptance of insurance required by this Agreement does not relieve PRIMARY EMPLOYER from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by PRIMARY EMPLOYER'S operations regardless if any insurance is applicable or not.

This provision is not intended to create any cause of action in favor of any third party against PRIMARY EMPLOYER or the COUNTY or to enlarge in any way the PRIMARY EMPLOYER'S liability but is intended solely to provide for indemnification of COUNTY from liability for damages or injuries to third persons or property arising from PRIMARY EMPLOYER'S performance pursuant to this contract or agreement.

12. **CONFIDENTIALITY:** COUNTY and PRIMARY EMPLOYER agree to maintain confidentiality of information and records as required by applicable federal, state and local laws, regulations and rules, and further agree to hold each other harmless from any breach of confidentiality, as set forth in the hold harmless provisions contained herein. PROGRAM MANAGER while having access to confidential necessary information of both COUNTY and PRIMARY EMPLOYER, agrees to only share each entity's confidential information with the other to the extent authorized or permitted by law and necessary.
13. **HIPAA COMPLIANCE:** This Agreement has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act ("HIPAA") and its implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations"). As set forth in this Agreement, PRIMARY EMPLOYER is the Business Associate of COUNTY that provides services, arranges, performs, or assists in the performance of functions or activities on behalf of COUNTY and creates, receives, maintains, transmits, uses or discloses protected health information (PHI). PRIMARY EMPLOYER agrees to the provisions set forth in Exhibit B, HIPAA Business Associate Agreement Addendum, to satisfy certain standards and requirements of HIPAA and the HIPAA regulations, and other applicable laws.
14. **PRIMARY EMPLOYER NOT AGENT:**
- Except as COUNTY may specify in writing PRIMARY EMPLOYER shall have no authority, express or implied, to act on behalf of COUNTY in any capacity whatsoever as an agent. PRIMARY EMPLOYER shall have no authority, express or implied pursuant to this Agreement to bind COUNTY to any obligation whatsoever.
- Except as COUNTY may specify in writing PROGRAM MANAGER shall have no authority, express or implied, to act on behalf of COUNTY in any capacity whatsoever as an agent. PROGRAM MANAGER shall have no authority, express or implied pursuant to this Agreement to bind COUNTY to any obligation whatsoever.
15. **PERSONNEL:** PRIMARY EMPLOYER shall assign only competent personnel to perform services pursuant to this Agreement. In the event that COUNTY, at any time during the term of this Agreement, is not satisfied with the performance of the person or persons assigned by PRIMARY EMPLOYER to perform services pursuant to this Agreement, including those members of the Project Team as explained below, COUNTY shall notice PRIMARY EMPLOYER immediately and PRIMARY EMPLOYER and County shall meet and confer to resolve any issues. If unable to resolve the issues, County may terminate the Agreement according to the Termination Clause.
16. **STANDARD OF PERFORMANCE:** The PROGRAM MANAGER assigned by PRIMARY EMPLOYER shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which PROGRAM MANAGER is engaged in the geographical area in which PROGRAM MANAGER practices his/her profession. All products of whatsoever nature which PROGRAM MANAGER delivers to COUNTY pursuant to this Agreement shall be prepared in a substantial first class and workmanlike manner and conform to the standards or quality normally observed by a person practicing in PROGRAM MANAGER'S profession.
17. **TERMINATION:**
- 17.1. COUNTY shall have the right to terminate this Agreement at any time by giving thirty (30) working days advance written notice of such termination to PRIMARY EMPLOYER. In the event COUNTY shall give notice of termination, PRIMARY EMPLOYER shall immediately cease rendering service upon receipt of such written notice, pursuant to this Agreement. In the event COUNTY shall terminate this Agreement:
- 17.1.1. The PROGRAM MANAGER shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, Photostatting, photographing, and every other

means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

17.1.2. COUNTY shall have full ownership and control of all such writings delivered by PROGRAM MANAGER pursuant to this Agreement.

17.1.3. COUNTY shall pay PRIMARY EMPLOYER the reasonable value of services rendered by PROGRAM MANAGER to the date of termination pursuant to this Agreement not to exceed the amount documented by PRIMARY EMPLOYER and approved by COUNTY as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed the amount of the Agreement specified herein, and further provided, however, COUNTY shall not in any manner be liable for lost profits which might have been made by PRIMARY EMPLOYER had PRIMARY EMPLOYER completed the services required by this Agreement. In this regard, PRIMARY EMPLOYER shall furnish to COUNTY such financial information as in the judgment of the COUNTY is necessary to determine the reasonable value of the services rendered by the PROGRAM MANAGER. The foregoing is cumulative and does not affect any right or remedy, which COUNTY may have in law or equity.

17.2. PRIMARY EMPLOYER may terminate its services under this Agreement upon thirty (30) working days' advance written notice to the COUNTY.

18. **NONDISCRIMINATION:** During the performance of this Agreement, PRIMARY EMPLOYER 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 will not discriminate against employees, applicants or clients because of race, sex, sexual orientation, color, ancestry, religion or religious creed, national origin or ethnic group identification, mental disability, physical disability, medical condition (including cancer, HIV and AIDS), age (over 40), marital status, use of Family and Medical Care Leave and/or Pregnancy Disability Leave or any other class of individuals protected by federal, state or local law in regard to any position within the COUNTY.
19. **RECORDS:** PRIMARY EMPLOYER shall maintain, at all times, complete detailed records with regard to work performed under this Agreement in a form acceptable to COUNTY, and COUNTY shall have the right to inspect such records at any reasonable time. Regular reports shall be provided quarterly and/or upon request to the COUNTY that include hours worked for Placer County and associated tasks. Regular reports must also include the percentage of total work time for Placer County, shared work time on behalf of both counties, and personal time off (PTO). Notwithstanding any other terms of this Agreement, no payments shall be made to PRIMARY EMPLOYER until COUNTY is satisfied that work of such value has been rendered pursuant to this Agreement. However, COUNTY shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute. PRIMARY EMPLOYER shall be subject to the examination and audit of the California State Auditor for a period of three years after final payment under contract (Government Code, Section 8546.7).
20. **WAIVER:** One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this Agreement shall not operate as a waiver of any subsequent breach or default by the other party.
21. **CONFLICT OF INTEREST:** PRIMARY EMPLOYER certifies that no official or employee of the COUNTY, nor any business entity in which an official of the COUNTY has an interest, has been employed or retained to solicit or aid in the procuring of this Agreement. In addition, PRIMARY EMPLOYER agrees that no such person will be employed in the performance of this Agreement without immediately notifying the COUNTY.

22. **ENTIRETY OF AGREEMENT:** This Agreement contains the entire agreement of COUNTY and PRIMARY EMPLOYER with respect to the subject matter hereof, and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this Agreement, shall be binding or valid.
23. **GOVERNING LAW:** This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. Any legal proceedings on this Agreement shall be brought under the jurisdiction of the Superior Court of the County of Nevada, State of California, or the United States District Court, Eastern District of California.
24. **NOTIFICATION:** Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, and addressed to the parties as follows:

COUNTY OF PLACER: Robert L. Oldham, Director  
Placer County Dept. of Health and Human Services  
11434 B Ave, Suite 100  
Auburn, CA 95603  
[HHSContracts@placer.ca.gov](mailto:HHSContracts@placer.ca.gov)

PRIMARY EMPLOYER: Ryan Gruver, Director  
Nevada County Health and Human Services  
950 Maidu Ave, Suite 120  
Nevada City, CA 95959

Changes in contact person or address information shall be made by notice, in writing, to the other party.

***//Signatures on following page***

**IN WITNESS WHEREOF**, the parties hereto have caused their duly authorized representatives to execute this Agreement as of the day first above stated:

COUNTY OF NEVADA  
("PRIMARY EMPLOYER")

\_\_\_\_\_  
Hardy Bullock, Chair  
Board of Supervisors

Date: \_\_\_\_\_

COUNTY OF PLACER ("COUNTY")

\_\_\_\_\_  
Robert L. Oldham, Director,  
Department of Health & Human Services

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jeffrey Thorsby  
Clerk of the Board of Supervisors

Date: \_\_\_\_\_

Approved as to Form  
Office of Placer County Counsel

\_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to Form  
Office of Nevada County Counsel

\_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBITS:**

Exhibit A – Scope of Services

Exhibit B – HIPAA Business Associate Agreement-Addendum

**SCOPE OF SERVICES**

Services shall include the provision of consultative hours by the Nevada County Health and Human Services Agency's (HHSA) Truckee PROGRAM MANAGER to explore and develop collaborative programming between Placer and Nevada Counties HHS agencies. Up to One Thousand Forty (1,040) hours will be allotted to Placer County for the following:

1. Explore and develop plans for the delivery of collaborative and regional adult and child mental health services, Adult Protective Services, and Child Welfare Services, to the extent a regional approach serves both counties effectively. The Deputy Directors of the Placer County Adult and Children's Systems of Care will provide programmatic direction for Adult System of Care (ASOC) and Children's System of Care (CSOC) issues respectively.
2. As requested by the Placer County Department Head or Deputy Directors, perform all tasks related to the position as the lead on-site manager for Placer County HHS programs and offices in North Lake Tahoe, including Tahoe City, Carnelian Bay, Tahoe Vista, and Kings Beach including, but not limited to, the following:
  - 2.1. General management of Placer County HHS Tahoe operations, including ASOC, CSOC, Human Services including the Veterans Service Office (VSO), Public Health, Animal Services, and Environmental Health divisions.
    - 2.1.1. Address facility issues including snow removal, building evacuation, and bear incidents.
    - 2.1.2. Assure HHS programs are appropriately staffed and alert Placer HHS Director's Team of concerns or needs associated with department staffing, performance, etc.
    - 2.1.3. Provide input into HHS staff performance appraisals as requested by managers.
  - 2.2. Emergency management and response, including coordination of mass care and shelter response to emergencies/disasters.
  - 2.3. Contract monitoring to include oversight of contract deliverables, and fiscal monitoring. This includes management of the contracts for both mental health and substance abuse services in conjunction with input from respective ASOC and CSOC managers assigned this shared responsibility.
  - 2.4. Tahoe office liaison for Veterans projects, including collaboration with the VSO on the Veterans initiative in the Strategic Plan.
  - 2.5. Participation at stakeholder and department meetings.
    - 2.5.1. Attend various division managers' meetings as scheduled, in person or by phone.
    - 2.5.2. Attend and facilitate attendance by other Tahoe regional partners at monthly meetings of the Campaign for Community Wellness (CCW).
    - 2.5.3. Participate as the Tahoe representative at COUNTY homeless meetings, including the local Continuum of Care, the Homeless Resource Council of the Sierras, and the Veterans By-Name List as applicable.
    - 2.5.4. Assure representation by Placer at COUNTY or PRIMARY EMPLOYER School Attendance Review Board meetings.
3. Provide community representation for Placer County HHS, including meetings of the Community Collaborative of Tahoe Truckee that will be augmented by appropriate Placer HHS management.



4. Meet quarterly, or as needed, with executive staff from both Nevada County and Placer County HHS agencies to discuss agreed-upon priorities, and the availability and allocation of the Nevada County HHSA PROGRAM MANAGER'S time.
5. Respond to inquiries from local stakeholders for information about Placer HHS programs.

PROGRAM MANAGER shall provide up to One Thousand Forty (1,040) hours of consultation services to Placer County during the contract term in the performance of the above duties. Duties performed by the PROGRAM MANAGER shall be conveyed to the Placer County Director of Health and Human Services via a bi-weekly Activity Report. Consultation may be expanded to include other health and human service program areas upon the agreement of both parties.

Oversight of the Nevada County HHSA Truckee PROGRAM MANAGER'S work performed under this Agreement will be conducted by the Placer County Director of Health and Human Services. However, if PROGRAM MANAGER perceives a conflict with COUNTY direction, PROGRAM MANAGER shall notify the Director of HHSA for both COUNTY and PRIMARY EMPLOYER who shall meet in good faith to resolve the conflict. If the conflict is not resolved, this Agreement may be terminated pursuant to Section 17 of the Main Agreement.

**HIPAA BUSINESS ASSOCIATE AGREEMENT-ADDENDUM**

**WHEREAS**, "COUNTY/Covered Entity" ("CE") wishes to disclose certain information to "CONTRACTOR/Business Associate" ("BA") pursuant to the terms of the Contract, some of which may constitute Protected Health Information ("PHI") (defined below), and

**WHEREAS**, CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services ("the HIPAA Regulations") and other applicable laws, and

**WHEREAS**, BA shall comply with the Business Associate Provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act (Section 13001 of Public Law 111-5, the HITECH Act regulations located in 45 CFR 160 & 164), including but not limited to Title 42, United States Code, Section 1320d et seq. and its implementing regulations (including but not limited to Title 45, Code of Federal Regulations (CFR), Parts 160, 162, and 164), and

**WHEREAS**, BA shall comply with the State of California regulations regarding the reporting of unauthorized releases of protected health information (PHI). The regulations are found in: Health and Safety Code Sections 1280.15, and Section 1280.18; and Civil Code Section 56.05, and

**WHEREAS**, as part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(a) and (e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Addendum, and

**WHEREAS**, CE will make available and/or be transferring to BA certain information, in conjunction with goods and services to be provided by BA as outlined in the Contract, that is confidential and must be afforded special treatment and protection, and

**WHEREAS**, BA will have access to and/or receive from CE certain information that can be used or disclosed only in accordance with this Business Associate Agreement-Addendum and the HHS privacy regulations, and

**WHEREAS**, BA does hereby assure CE that BA will appropriately safeguard protected health information made available to BA, in implementation of such assurance and without otherwise limiting the obligations of BA as set forth in the Contract.

In consideration of the mutual promises below and the exchange of information pursuant to this Addendum, **COUNTY/Covered Entity and CONTRACTOR/Business Associate agree as follows:**

1. **DEFINITIONS:**

The following terms shall have the meaning ascribed to them in this section. Other terms shall have the meaning ascribed to them in the context in which they first appear.

- 1.1. **CONTRACT** - shall refer to the separate agreement between CE and BA of which this agreement is an Addendum and Exhibit to.
- 1.2. **BREACH** - shall have the meaning given to such term under HITECH Act and HIPAA Regulations [42 U.S.C. Section 17921 and 45 C.F.R. Section 164.402].
- 1.3. **BREACH NOTIFICATION RULE** - shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and D.

- 1.4. BUSINESS ASSOCIATE - shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- 1.5. COVERED ENTITY - shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- 1.6. COUNTY - shall mean the entity providing/making available the information.
- 1.7. DATA AGGREGATION - shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- 1.8. DESIGNATED RECORD SET - shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- 1.9. ELECTRONIC PROTECTED HEALTH INFORMATION - means Protected Health Information that is maintained in or transmitted by electronic media.
- 1.10. ELECTRONIC HEALTH RECORD - shall have the meaning given to such term in the HITECH Act, including, but not limited to 42 U.S.C. Section 17921.
- 1.11. HEALTH CARE OPERATIONS - shall have the meaning given to such term under the Privacy Rule, including but not limited to, 45 C.F.R. Section 164.501.
- 1.12. INDIVIDUAL - shall mean any person/client/patient who is the subject of the information, is a third-party beneficiary to this Business Associate Agreement - Addendum, and has the same meaning as the term "individual" as defined by 45 CFR 164.501.
- 1.13. INFORMATION - shall mean any "health information" provided to and/or made available by COUNTY to CONTRACTOR, and has the same meaning as the term "health information" as defined by 45 CFR 160.102.
- 1.14. PARTIES - shall mean COUNTY/Covered Entity and CONTRACTOR/Business Associate.
- 1.15. PRIVACY RULE - shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- 1.16. PROTECTED HEALTH INFORMATION or PHI - means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- 1.17. PROTECTED INFORMATION - shall mean PHI provided by CE to BA or created, maintained, received or transmitted by BA on CE's behalf.
- 1.18. SECRETARY - shall mean the Secretary of the Department of Health and Human Services ("HHS") and any other officer or employee of HHS to whom the authority involved has been delegated.
- 1.19. SECURITY INCIDENT - shall have the meaning given to such term under the Security Rule, including, but not limited to, 45 C.F.R. Section 164.304.
- 1.20. SECURITY RULE - shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- 1.21. UNSECURED PHI - shall have the meaning given to such term under the HITECH ACT and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h) and 45 C.F.R. Section 164.402.

2. **TERM:**

The term of this Agreement shall expire when all of the information provided by CE to BA is destroyed or returned to CE pursuant to the remaining Contract provisions. BA agrees to return or destroy all information received or created by BA on behalf of CE and agrees not to retain any copies of information after termination of the Contract. If BA elects to destroy some or all of the information retained, it shall certify to CE that the information has been destroyed. This provision survives termination of the Contract.

3. **OBLIGATIONS OF CONTRACTOR/BUSINESS ASSOCIATE:**

The HIPAA Business Associate Agreement (BAA) is required for all contracts in which an individual's protected health information is included in the contract between CE (a covered entity for HIPAA purposes) and a private individual or private business entity (Business Associate for HIPAA purposes). The purpose of the HIPAA Business Agreement is to ensure that the BA, during the performance of its contractual obligations with CE, protects the health information of individuals in accordance with State and Federal regulations.

3.1. **Permitted Uses.** BA shall use Protected Information only for the purpose of performing BA's obligations under the Contract and as permitted or required under the Contract and Addendum, or as required by law. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information as necessary (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes relating to the Health Care Operations of CE [45 C.F.R. Sections 164.504(e)(2) and 164.504(e)(4)(i)].

3.2. **Permitted Disclosures.** BA shall disclose Protected Information only for the purpose of performing BA's obligations under the Contract and as permitted or required under the Contract and Addendum, or as required by law. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information as necessary (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv), for Data Aggregation purposes relating to the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Addendum and used or disclosed only as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches, suspected breaches, security incidents, or unauthorized uses or disclosures of the Protected Information in accordance with the Notification of Possible Breach requirements set forth in this Addendum (subparagraph 3.12), to the extent it has obtained knowledge of such occurrences [42 U.S.C. Section 17932; 45 C.F.R. Section 164.504(e)].

3.3. **Prohibited Uses and Disclosures.** BA shall not use or disclose PHI other than as permitted or required by the Contract and Addendum, or as required by law. BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operation purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a) and 45 C.F.R. Section 164.522(a)(vi)]. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2), and the HIPAA regulations, 45 C.F.R. Section 164.502(a)(5)(ii); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to the Contract.

- 3.4. **Appropriate Safeguards.** BA shall implement appropriate safeguards to prevent the use or disclosure of Protected Information other than as permitted by the Contract or Addendum, including, but not limited to, administrative, physical and technical safeguards in accordance with the Security Rule, including, but not limited to, 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BA shall comply with the policies and procedures and documentation requirements of the Security rule, including, but not limited to, 45 C.F.R. Section 164.316 [42 U.S.C. Section 17931].
- 3.5. **Business Associate's Subcontractors and Agents.** BA shall ensure that any agents and subcontractors that create, receive, maintain or transmit Protected Information on behalf of BA, agree in writing to the same restrictions and conditions that apply to BA with respect to such Protected Information and implement the safeguards required by paragraph 3.4 above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)] BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation [45 C.F.R. Sections 164.530(f) and 164.530(e)(1)].
- 3.6. **Access to Protected Information.** If BA maintains a designated record set on behalf of CE, BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within five (5) days of a request by CE to enable CE to fulfill its obligations under state law [Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains Protected Information in electronic format, BA shall provide such information in electronic format as necessary to enable CE to fulfill its obligations under the HITECH Act and HIPAA Regulations, including, but not limited to, 42 U.S.C. Section 17935(e) and 45 C.F.R. Section 164.524.
- 3.7. **Amendment of PHI.** If BA maintains a designated record set on behalf of CE, within ten (10) days of a request by CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA and its agents and subcontractors shall make such Protected Information available to CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If an individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request and of any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
- 3.8. **Accounting Disclosures.** Promptly upon any disclosure of Protected Information for which CE is required to account to an individual, BA and its agents and subcontractors shall make available to CE the information required to provide an accounting of disclosures which would allow CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents and subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an Electronic Health Record. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. If a patient submits a request for an accounting directly to BA or its agents or subcontractors, BA shall within five (5) days of the request forward it to CE in writing.

- 3.9. **Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the “Secretary”) for purposes of determining BA’s compliance with HIPAA [45 C.F.R. Section 164.504(A)(2)(ii)(I)]. BA shall provide CE a copy of any Protected Information and other documents and records that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- 3.10. **Minimum Necessary.** BA, its agents and subcontractors shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)] BA understands and agrees that the definition of “minimum necessary” is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes “minimum necessary.”
- 3.11. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.
- 3.12. **Notification of Possible Breach.** BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of Protected Information; any use or disclosure of Protected Information not permitted by the Contract or Addendum; any security incident (i.e., any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in and information system) related to Protected Information, and any actual or suspected use or disclosure of data in violation of any applicable federal or state laws by BA or its agents or subcontractors. The notification shall include, to the extent possible, the identification of each individual whose unsecured Protected Information has been, or is reasonably believed by the BA to have been, accessed, acquired, used, or disclosed, as well as any other available information that CE is required to include in notification to the individual, the media, the Secretary, and any other entity under the Breach Notification Rule and any other applicable state or federal laws, including, but not limited to, 45 C.F.R. Section 164.404 through 45 C.F.R. Section 164.408, at the time of the notification required by this paragraph or promptly thereafter as information becomes available. BA shall take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to unauthorized uses or disclosures required by applicable federal and state laws [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(c); 45 C.F.R. Section 164.308(b)].
- 3.13. **Breach Pattern or Practice by Business Associate’s Subcontractors and Agents.** Pursuant to 42 U.S.C. Section 17934(b) and 45 C.F.R. Section 164.504(e)(1)(ii), if the BA knows of a pattern of activity or practice of a subcontractor or agent that constitutes a material breach or violation of the subcontractor or agent’s obligations under the Contract or Addendum or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible. BA shall provide written notice to CE of any pattern of activity or practice of a subcontractor or agent that BA believes constitutes a material breach or violation of the subcontractor or agent’s obligations under the Contract or Addendum or other arrangement within five (5) days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
- 3.14. **Audits, Inspection and Enforcement.** Within ten (10) days of a request by CE, BA and its agents and subcontractors shall allow CE or its agents or subcontractors to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Addendum for the purpose of determining whether BA has complied with this Addendum or maintains adequate security safeguards; provided, however, that (i) BA and CE shall mutually agree in advance upon the scope, timing, and location of such an inspection, (ii) CE shall protect the confidentiality of all confidential and proprietary information of BA to which CE has access

during the course of such inspection; and (iii) CE shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by BA. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems, books, records, agreements, policies, and procedures does not relieve BA of its responsibility to comply with this Addendum, nor does CE's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract or Addendum. BA shall notify CE within five (5) days of learning that BA has become the subject of an audit, compliance review, or complaint investigation by the Office of Civil Rights or other state or federal government entity.

4. **HIPAA COMPLIANCE PLAN REQUIREMENT:**

In order to ensure that the BA complies with Federal and State regulations regarding protected health information, the BA shall submit a "HIPAA Compliance Plan" to the CE describing:

- 4.1. The training of staff and any subcontractors regarding HIPAA and State regulations.
- 4.2. A process for tracking the training of staff and subcontractors.
- 4.3. A process for staff and subcontractors to report any breaches of protected health information. This shall include employee disciplinary procedures for employees who violate HIPAA guidelines, and whistle blower protection for staff reporting breaches.
- 4.4. A description of how the BA plans to secure and safeguard electronically stored health information. This shall include at a minimum, descriptions of passwords, encryption, and any other technology designed to prevent unauthorized access to protected health information.
- 4.5. A process for reviewing security measures and identifying areas of potential risk for a breach, a plan for mitigating identified risks, and assurance that such risk evaluation shall be conducted annually.

5. **DATA AGGREGATION SERVICES:**

BA is also permitted to use or disclose information to provide data aggregation services as that term is defined by 45 CFR 164.501, relating to the health care operations of CE.

6. **TERMINATION:**

A breach by BA of any provision of this Addendum, as determined by CE shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)]. CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has joined. Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA and its agents and subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections and satisfy the obligations of this Addendum to such information, and limit further use and disclosure of such PHI to those persons that make the return or destruction of the information infeasible [45 C.F.R. Section 164.504(e)(ii)(2)(J)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed in accordance with the Secretary's guidance regarding proper destruction of PHI.

7. **ADDITIONAL BREACH GROUNDS:**

Any non-compliance by BA with the provisions of this Business Associate Agreement Addendum or the HHS privacy regulations will automatically be considered grounds for breach if BA knew or

reasonably should have known of such non-compliance and failed to immediately take reasonable steps to cure the non-compliance.

8. **INJUNCTIVE RELIEF:**

Notwithstanding any rights or remedies provided for in the Contract, CE retains all rights to seek injunctive relief to prevent or stop unauthorized use or disclosure of information by BA or any agent, subcontractor or third-party recipient of information from BA.

9. **AMENDMENTS:**

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract or Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable state or federal laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of the amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. CE may terminate the Contract upon thirty (30) days written notice in the event (i) BA does not promptly enter into negotiations to amend the Contract or Addendum when requested by CE pursuant to this section or (ii) BA does not enter into an amendment to the Contract or Addendum providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

10. **DISCLAIMER:**

CE makes no warranty or representation that compliance by BA with this Addendum, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

11. **LITIGATION OR ADMINISTRATIVE PROCEEDINGS:**

BA shall notify CE within forty-eight (48) hours of any litigation or administrative proceedings commenced against BA or its agents or subcontractors. In addition, BA shall make itself, and any subcontractors, employees and agents assisting BA in the performance of its obligations under the Contract or Addendum, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its supervisors, directors, officers, managers or employees based upon a claimed violation of HIPAA, the HITECH Act, the HIPAA regulations, or other state or federal laws relating to security and privacy, except where the BA or its subcontractors, employees or agents are a named adverse parties.

12. **NO THIRD-PARTY BENEFICIARIES:**

Nothing express or implied in the Contract or Addendum is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

13. **EFFECT ON CONTRACT:**

Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Contract shall remain in force and effect.

14. **INTERPRETATION:**

The provisions of this Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. This Addendum and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the



HIPAA regulations, and other state and federal laws related to security and privacy. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the HIPAA regulations, and other state and federal laws related to security and privacy.

15. **SOFTWARE SECURITY:**

If applicable, BA warrants that software security features will be compatible with the CE's HIPAA compliance requirements.

This HIPAA Business Associate Agreement-Addendum shall supersede any prior HIPAA Business Associate Agreements between CE and BA.