

May 10, 2017

To: Michael Rose, Chair, Orange County Mental Health Board  
From: Michael Arnot, Executive Director, Children's Cause Orange County  
Re: MHSA Community Opportunities Fund Resolution

Dear Michael,

We would like to thank you and the other Mental Health Board members for listening yesterday to members of the community on both what's positive in terms of existing MHSA programs and also where there are remaining gaps in the current system. One of the important gaps not addressed is developing an effective mechanism to support research- and evidence-based programs being implemented in many communities by small to mid-size community organizations. These efforts are in place and ready to provide immediate assistance for the mental health needs of those most at-risk for being un-served or under-served.

Given this need and the community's support for the MHSA Community Opportunities Fund (MHSA COF) as well as interest from individual Board members, we respectfully request that as Chair of the Mental Health Board that you add the MHSA COF Resolution as an item on the agenda that will be posted prior to your meeting on May 24, 2017. This would allow the Mental Health Board to have a focused discussion on the item and vote on it prior to considering the vote on the MHSA Three Year Plan.

I've let Dr. Ishikawa know that we are willing to provide whatever assistance we can to put HCA staff in a position to proceed with implementation. Feasibility will likely be a part of the Mental Health Board's discussion on the Resolution including:

1. "Does the HCA have the legal/regulatory authority to distribute MHSA funds using this mechanism?" - We believe that the answer is "yes". This is based on the current precedent of the MHSA funded Mental Health Community Educational Events open RFA which is currently accepting applications until the end of the end year (see attached RFA and ASR).
2. "HCA doesn't have staff available, how it it going to get implemented?" - Certainly, there are systemic issues that are preventing HCA from adding positions or filling current vacancies, even though the MHSA funding is available to do so. This, combined with the lessons learned from the staff's management of Educational Events RFA, has led to the development of the following two recommendations for MHSA COF implementation:
  - a. Contracting with an organization such as Orange County Community Foundation, OneOC, or Charitable Ventures of Orange County to administer the fund, provide compliance monitoring of grantees, and provide technical assistance to potential and selected awardees.
  - b. Establish a MHSA COF Subcommittee of Mental Health Board which would be supported by a consultant. Members of this committee would review and approve final recommendations on a routine basis prepared by the consultant. Mental Health Board members are already trained on conflict-of-interest requirements and this model is identical to what occurs in most private foundations.

May 5, 2017

3. "Why can't group just go through the collaboratives such as MECCA that HCA staff mentioned?" - These organizations can and do. However, in meeting with MECCA's leadership, they were clear that the support they receive is not sufficient to fully address the ethnic disparities that currently exist in Orange County communities. MECCA's work needs more support from MHSA. Members of this collaborative also desire to benefit from being able to access the MHSA COF for their own direct programs. It is not an either/or. In fact, collaboratives not currently funded by MHSA, would like apply to the MHSA COF as soon as it becomes available. Additionally, there are many pressing community needs that could be addressed immediately without having to receive the funding through a complex collaborative structure (e.g., therapists that specialize in providing mental health services for visually impaired children).

HCA staff are likely to raise many other concerns as well. Therefore, we have made ourselves available for the next few weeks to assist them in overcoming any barriers that they may encounter.

We are concerned that these community needs will continue to go unaddressed unless we can put something in place that will be implemented during the FY 2017/2018 fiscal year. The Mental Health Board plays a critical role in making this happen. There is currently an open window and our hope is that the Board will take this first step in supporting this important community effort by passing the MHSA Community Opportunities Fund Resolution.

If I can be of any assistance in preparing for the May 24th meeting, please let me know.

Best regards,

Michael Arnot  
Executive Director  
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[www.childrencauseoc.org](http://www.childrencauseoc.org)

RESOLVED, that the Orange County Mental Health Board recommends that the local mental health director include within the Orange County Mental Health Services Act Three-Year Plan FY 17/18 – 19/20 (“Plan”), the MHSA Community Opportunities Fund, a new funding mechanism to address mental health services needs brought forward by the public to the MHSA Steering Committee or Mental Health Board but not included in the Plan. Recommended for inclusion, prior to seeking approval for the Plan from the Orange County Board of Supervisors, as follows:

## **MHSA Community Opportunities Fund (MHSA COF)**

The MHSA Three Year Plan contains a broad range of programs and services to address the mental health needs of Orange County residents. These efforts have been informed by citizen and professional involvement at all stages of the planning process for the Plan. In some cases, specific community needs have been raised, but given the structural challenges of matching existing programs to emerging trends, may not have been included in the final Plan.

Additionally, during each fiscal year, unanticipated barriers may arise necessitating a delay or adjustment that results in expending less than what was budgeted for one or more programs in the Plan.

The MHSA COF provides a mechanism for the consideration of additional community-based programs and initiatives throughout the year that would be funded by otherwise unutilized budgeted amounts in the Plan. Through an RFA selection process, research driven proposals from community-based organizations would be considered for funding. Organizations who currently do not have direct MHSA funded contracts with HCA or that have budgets equal to or less than \$3,000,000 per year would be eligible to apply. During the first year, the total amount distributed through the MHSA COF is anticipated to be at least \$3,000,000. The Orange County Mental Health Board will be responsible for adopting policies concerning the management of the MHSA COF including recommending additional MHSA funding above Plan to the Orange County Board of Supervisors if such funding becomes available.



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## **ADMINISTRATIVE SERVICES CONTRACT SERVICES**

DATE: December 22, 2017

TO: Interested Parties

FROM: County of Orange, Health Care Agency  
Contract Services Division

**SUBJECT: Request for Applications (RFA) – Mental Health Community Educational Events**

The County of Orange (County) Health Care Agency (HCA) is seeking applications from qualified organizations to provide Mental Health Community Educational Events, in accordance with the Mental Health Services Act of 2004 (Proposition 63), as outlined in the County Prevention and Early Intervention Plan.

If after review of this RFA, which includes Attachments I, II, and III, your organization is interested in providing the Mental Health Community Educational Events specified in this solicitation, complete and submit an Application per the instructions referenced in section IV of this RFA.

The County reserves the right to modify this RFA or cancel it at any time. This RFA is not in any way to be construed as an agreement, obligation, or contract between the County and any party submitting an application, nor will the County pay for any costs associated with the preparation of an Application.

### **DUE DATE FOR REQUEST FOR APPLICATIONS**

HCA plans to review all applications received and enter into contract with applicants that are approved. Approved applications will be awarded contracts on a first come first serve basis. Services may commence shortly after contracts are signed by individual parties and executed. Applications will be accepted on a continuous basis until funding is depleted, or no later than **December 31, 2017**. **Submission of early applications is strongly encouraged.**

**Bidders submitting an application must electronically upload their application in PDF format, via BidSync, as well as e-mail the application to the procurement administrator stated below. Please submit the application via email to:**

Debbie Box, Procurement Administrator  
Health Care Agency – Contract Services  
**dbbox@ochca.com**

All questions regarding this solicitation are to be posted online via the BidSync Question and Answer section. Applicants are expected to thoroughly read through the entire solicitation package before posting questions. It is up to each individual applicant to determine if they meet the eligibility requirements to submit an application identified in Section I.B., and other sections of the solicitation if applicable. HCA does not provide assistance in this matter beyond the requirements stated in this solicitation. Responses from HCA will be posted to BidSync as promptly as possible. The Question and Answer section will be closed to new questions on **Thursday, December 1, 2017 at 2:00 P.M. Pacific Time.**

Any response or communication from a County representative other than written answers posted on BidSync will be unauthorized and the County shall bear no responsibility for any reliance upon unauthorized communications.

If you know of any qualified organizations that may be interested in this solicitation, please feel free to refer them to BidSync to view the solicitation. Your consideration of this solicitation is appreciated.

County of Orange  
Health Care Agency



Request for Applications  
Mental Health Community Educational Events

Released  
December 22, 2016

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Attachment I – Master Agreement and Attestation Form

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Attachment III – Proposed Budget Template

Attachment IV – Benchmarks, Deliverables, and Installments Planning Template

**NOTE: Forms and attachments in PDF and/or Excel format are posted on BidSync as separate attachments to this solicitation.**

## A. APPLICATION FOCUS AND BACKGROUND

The County of Orange (County) Health Care Agency (HCA) is seeking applications from qualified organizations to provide Mental Health Community Educational Events in Orange County, California. The primary goal of this program is to support individuals or groups who are able to produce meaningful artistic event(s) to a diverse population that can deliver an effective message towards reducing mental health stigma. It is anticipated that **multiple** contracts will be awarded for events that meet the program needs and, or criteria and contingent upon available funding.

Research indicates that mental illness stigma is a barrier to recovery<sup>1</sup> and it negatively affects participation in mental health care services<sup>2</sup>. According to the federal Substance Abuse and Mental Health Services Administration (SAMHSA), one of the causes of social exclusion and discrimination associated with mental illnesses is a misperception that people who have mental illnesses lack the same interests and abilities as everyone else. Evidence points to the fact that stigma reduction art events such as plays, skits, art shows, videos, slide shows, film series, poetry readings, dance productions and other similar events can increase knowledge and reduce the stigma of mental illness. In addition, having persons who have experience with mental illness and/or substance use disorders in art events supports their wellbeing. "Participation in arts programs can interrupt the drift to a negative lifestyle, helping to replace destructive behavior with positive activities and interests."<sup>3</sup> Furthermore, performing arts have also shown to promote empowerment in individuals impacted and allow communities to dialogue about illnesses.<sup>4</sup> This is accomplished through education via an art-based method, that uses social learning (social cognitive theory) through observation.<sup>5</sup>

## B. ELIGIBILITY TO SUBMIT APPLICATIONS

To be eligible to contract with the County, an individual or entity must not be listed on the current Cumulative Sanction List of the Office of the Inspector General (U.S. Department of Health and Human Services), the General Services Administration's list of parties excluded from federal programs, or the California Medi-Cal Suspended and Ineligible Provider List. **HCA will not review any application submitted by an individual or entity found to be on any of these lists.**

HCA plans to use the following links to identify individuals and entities that are not eligible to contract with the County: <http://exclusions.oig.hhs.gov>, <https://www.sam.gov/portal/public/SAM/>, and Medi-Cal Suspension Search Database. Each applicant should verify that it is not on any list prior to preparing an application to submit in response to this solicitation. Correction of any errors found on any sanction list is the sole responsibility of the applicant and must be made prior to the day the application is submitted.

HCA requires all potential individuals and/or contract entities to self-disclose any pending charges or convictions for violation of criminal law and/or any sanction or disciplinary action by any federal

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<sup>1</sup> Link, B.G., Phelan, J.C. (2001). Conceptualizing stigma. *Annual Review of Sociology*, 27, 363-385.

<sup>2</sup> Corrigan, P.W. (2004). How stigma interferes with mental health care. *American Psychologist*, 59(7), 614-625.

<sup>3</sup> Office of Juvenile Justice and Delinquency Prevention News. Sep/October 2010. Retrieved from [http://www.ncjrs.gov/html/ojjdp/news\\_at\\_glance/232007/sf\\_2.html](http://www.ncjrs.gov/html/ojjdp/news_at_glance/232007/sf_2.html)

<sup>4</sup> Booneh G and Jaganath D. Performance as a Component of HIV/AIDS Education: Process and Collaboration for Empowerment and Discussion. *American Journal of Public Health*, March 2011. Vol. 101. No.3:455-464

<sup>5</sup> Singhal A, Rogers EM. (2003) *Combating AIDS Communication Strategies in Action*. New Delhi, India: Sage Publication.



or state law enforcement, regulatory or licensing agency or licensing body, including exclusion from Medicare and Medicaid programs.

During the term of the contract between the contractor and the County, and in accordance with its existing provisions, if a contractor and/or an individual becomes an ineligible person, the contractor and/or individual shall be removed from any responsibility and/or involvement with the County contracted obligations related to any direct and/or indirect federal or state health care programs and any other federal and state funds. An ineligible person is defined as any individual or entity who is currently excluded, suspended, debarred or otherwise ineligible to participate in the federal health care programs; or has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated into the federal health care programs after a period of exclusion, suspension, debarment, or ineligibility.

The County does not require, and neither encourages or discourages, the use of lobbyists or other consultants for the purpose of securing business.

HCA reserves the right to disqualify any applicant on the basis of any real or apparent conflict of interest that is disclosed by the application submitted or any other information available to HCA. This disqualification is at the sole discretion of HCA. Any applicant submitting an application herein waives any right to object to HCA's exercise of this right, now or at any future time, before anybody or agency including, but not limited to, the County Board of Supervisors or any court of competent jurisdiction.

### **Causes for Disqualification**

HCA in its sole, absolute and unfettered discretion will determine whether or not an applicant is qualified and responsive. This determination may be based on one or more of the following:

- Evidence of collusion amongst applications.
- Lack of business skills or financial resources necessary to operate this business successfully, as revealed by either financial statements or experience statement.
- Lack of responsibility as shown by past work, references, or other factors.
- Applicant is in arrears or in default to the County on any debt or agreement or defaults upon any obligation to the County, or has failed to faithfully perform any previous agreement with the County at HCA's sole determination.
- Submission of an application that is late, incomplete, conditional, ambiguous, obscure, or which deviates from the specifications in this solicitation, or has irregularities of any kind.
- Other causes as HCA deems appropriate.

HCA's determination as to whether applicant is qualified and responsive will be based on the information furnished by the applicant in this solicitation, interview(s) with the applicant (if applicable), as well as from other sources determined to be valid by HCA. Award will not be made until after such investigations, as are deemed necessary, are made by HCA regarding the experience and financial responsibility of applicant, which each applicant agrees to permit by submitting its application.

Applications must be valid for a minimum of 365 days from the due date of this solicitation.

**C. CONTRACT TERM AND FUNDING AVAILABILITY**

The County plans to contract with all applicants who meet the requirements of this solicitation to provide the subject services. At the discretion of HCA, the initial term of the agreements resulting from this solicitation may be renewed for an additional term or terms so long as the aggregate of all terms do not exceed five (5) years in duration without a competitive bid process. Any renewal is contingent upon available funding, contractor performance, need for services, and HCA policies.

The contract awarded through this solicitation is anticipated to be fee for service, and each selected applicant's contract will be a part of an aggregate master agreement. The funding source for these services is Mental Health Services Act - Prop 63 funds. Any contract resulting from this solicitation is contingent upon sufficient funds being made available by federal, state, and/or county governments for the term of the contract. HCA reserves the right to revise the contract term stated in this solicitation. Start-up funds are not available for these services.

Reimbursement is subject to each individual art event. The reimbursement is dependent on amount of people expected in attendance, venue, and cost to put on event but shall be approximately within the amount of \$30.00 per person in attendance. Reimbursements will be made in installments in accordance with the attached master agreement.

**D. EVALUATION OF APPLICATIONS AND SELECTION OF PROVIDERS**

HCA plans to review all applications received and enter into contract negotiations with applicants that are approved. The County has sole discretion to not contract with any applicant that meets minimum qualifications for reasons such as (but not limited to): saturation in one geographical area or the needs of the target population.

HCA has the right to conduct a compensation plan analysis to review and audit all business records and related documents of any and all applicants (including an affiliated or parent company), determine the adequacy, fairness, and reasonableness of the application, and to contact any and all client references.

Following the review of applications, the HCA Director or Designee will approve a recommendation regarding the selection of any applicant. Award of a contract will not be effective unless and until it is authorized by the County of Orange Board of Supervisors.

**E. COUNTY'S RIGHTS**

The County reserves the right to:

- Modify this solicitation.
- Cancel this solicitation at any time, in whole or in part.
- Accept any application as offered.
- Reject any or all applications.
- Disqualify an applicant, or terminate a contract for false information submitted in response to this solicitation.

- Contract for all or some of the stated services.
- Based on the County's needs and availability of funding at the time of selection or during contract negotiations, modify the scope of service described herein.
- Waive, at its sole discretion, any procedural irregularity, immaterial defect, or other impropriety deemed reasonably correctable or not warranting rejection of the application.
- Ask applicants for additional documentation and/or information to further determine financial/organization stability.
- The County may, after providing written justification to be included in the procurement file, make the determination that an immediate award of the contract is necessary to protect the substantial interests of the County. The award of a contract shall in no way compromise the protester's right to the protest procedures outlined herein.

## **F. PROTEST PROCESS**

In the event an applicant believes that this solicitation is unfairly restrictive, ambiguous or contains conflicting provisions, applicant may submit a grievance or protest.

### Protest of Application/Solicitation Specifications

All protests related to solicitation specifications must be submitted to HCA Contract Services no later than five (5) business days prior to the close of the solicitation period. Protests received after the five (5) business day deadline will not be considered by the County. In the event the protest of specifications is denied and the protester wishes to continue in the solicitation process, it must still submit an application prior to the close of the solicitation in accordance with the application submittal procedures provided in the solicitation.

### Protest of Award of Contract

In protests related to the award of a contract, the protest must be submitted no later than five (5) business days after the "Notice of Intent to Award Contract" is provided by HCA Contract Services. Protests relating to a proposed contract award, which are received after the five (5) business day deadline will not be considered by the County.

### Procedure

All protests must be typed under the protester's letterhead and submitted in accordance with the provisions stated. All protests shall include at a minimum the following information:

1. The name, address, and telephone number of the protester.
2. The signature of the protester or the protester's authorized representative.
3. The name of the solicitation or number of the solicitation.
4. A detailed statement of the legal and/or factual grounds for the protest.
5. The form of relief requested.

Written protests must be sent to: County of Orange/Health Care Agency  
Contract Services Division  
405 W. 5th Street, Suite 600  
Santa Ana, CA 92701-4637  
Attn: Division Manager  
FAX: (714) 834-4450

### Appeal Process

If the protester disagrees with the decision of the Contract Services Division Manager, the protester may submit a written notice within three (3) business days from receipt of the Contract Services Division Manager's decision to the Office of the County Purchasing Agent requesting an appeal to the Procurement Appeals Board.

Written appeals must be sent to: County of Orange/Executive Office  
Procurement  
1300 S. Grand Avenue, Building A  
Santa Ana, CA 92705  
Attn: County Purchasing Agent  
FAX: (714) 567-5057

Within 15 business days, the County Purchasing Agent will review all materials in connection with the protest, assess the merits of the protest and provide a written determination that shall contain his or her decision on whether the protest shall be forwarded to the Procurement Appeals Board. The decision of the County Purchasing Agent on whether to allow the appeal to go forward will be final and there shall be no right to any administrative appeals of this decision.

## **G. CONFIDENTIALITY**

Pursuant to California law, all information contained in an applicant's response to this solicitation may be public record subject to disclosure to any member of the public who requests it through the California Public Records Act. If it is necessary to include proprietary/trade secret information in an application response, the County recommends that the applicant clearly and prominently mark the information they believe falls within this category.

HCA will attempt to notify the applicant if disclosure is requested of information that has been identified as proprietary/trade secret information in order to give the applicant an opportunity to seek a court order prohibiting disclosure of such information. However, due to statutory time limits the County has in response to request for public records, County will be able to give the applicant only a short period of time in which to seek such a court order before County will be required to disclose the requested information. Further, it is entirely the applicant's responsibility to assert that information the applicant believes is proprietary/trade secret information should not be disclosed. County will not make such a claim for the applicant but will obey a valid court order obtained by the applicant prohibiting disclosure of such information.

If an applicant believes that a specific section of its application is confidential, applicant will isolate the pages marked confidential in a specific and clearly labeled section of its application response. Applicant will include a written statement as to the basis for considering the marked pages

confidential including the specific harm or prejudice if disclosed and HCA will review the material, applicant's concerns and make an independent determination.

#### **H. ADDENDUMS**

HCA reserves the sole right to interpret or change any provision of the solicitation at any time prior to the application submission date. Any and all interpretations or changes will be in the form of a written addendum, which will be furnished to all applicants through BidSync. All addendums issued will become part of the solicitation and resultant agreement. Applicants hereby acknowledge their receipt of any addendum by being registered in BidSync and acknowledge it is the applicant's responsibility to check for, and read, all addendums posted in BidSync.

Should such addendum require information not previously requested, HCA at its sole discretion, may determine that a time extension is required for the submission of applications, in which case an addendum will indicate the new application submission date.

#### **I. CONTRACT TERMS AND CONDITIONS**

HCA anticipates that the term of the contract will be July 1, 2017 through June 30, 2019. Applicants are expected to begin providing services after the contract is signed by individual parties and executed.

The attached Master Agreement (Attachment I) is a sample of the agreement that will be used to develop individual contracts with selected applicants, and is provided for purposes of reference only. It is not in any way to be construed as an agreement, obligation, or contract between the County and any party submitting an application.

The County reserves the right to change or modify the terms and conditions described in the Master Agreement. Any changes or modifications made after submission of this application will be discussed with and agreed upon between the selected applicant and the County prior to executing the final agreement.

**All selected applicants must be willing to accept the terms and conditions of the Master Agreement in its entirety; there will be no negotiations.**

The successful applicant may be required to attend a post-award meeting with HCA for discussion of the terms and conditions of the contract. HCA staff will coordinate any such meeting(s). HCA reserves the right to clarify any contractual terms with the concurrence of applicant; however, any substantial non-conformity in the application as determined by HCA, will be deemed non-responsive and the application rejected. Any contract(s) resulting from this solicitation will contain the entire agreement between HCA and the applicant relating to this requirement and will prevail over any and all previous agreements, contracts, applications, negotiations, purchase orders, or master agreements of any form.

#### **J. INSURANCE REQUIREMENTS**

Insurance coverage and limits for the awarded agreements will vary based upon the identified services and will be determined during contract negotiations. The baseline amounts are as follows:

COVERAGE	MINIMUM LIMITS
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability, including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made
Professional Liability	\$1,000,000 per claims made \$1,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence
Employee Dishonesty	\$1,000,000 per claims made

### 1. REQUIRED COVERAGE FORMS

- a. The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG-0001, or a substitute form providing liability coverage at least as broad.
  - b. The Business Automobile Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.
2. The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:
- a. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, and agents as Additional Insureds.
  - b. A primary non-contributing endorsement evidencing that the contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
3. The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:
- a. An Additional Insured endorsement naming the County of Orange, its elected and appointed officials, officers, agents and employees as Additional Insureds for its vicarious liability.
  - b. A primary non-contributing endorsement evidencing that the contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
4. All insurance policies required by this agreement shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees.
5. The Workers' Compensation policy must include a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees.
6. If the Professional Liability is "Claims Made" policy (ies), contractor shall agree to maintain coverage for two (2) years following the completion of this contract.

7. The Commercial General Liability policy shall contain a “severability of interests” clause also known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).
8. The insurance company providing coverage must have and maintain at minimum the following ratings based on the most current edition of the Best’s Key Rating Guide/Property-Casualty/United States (ambest.com):
  - a. A- (Secure A.M. Best’s Rating).
  - b. VIII (Financial Size Category).
9. It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier). If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.
10. Self-Insured Retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate as such on the Certificate of Insurance with a zero (0) by the appropriate line of coverage.
11. All insurance policies required by the agreement shall give the County 30 calendar days’ notice in the event of cancellation and 10 calendar days’ notice for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

Prior to the provision of services, the successful applicant will be required to purchase all insurance at the above minimum standards at applicant’s expense, and to deposit with the County, Certificates of Insurance including all endorsements necessary to satisfy the provisions identified above.

If Self-Insured, the successful applicant will be required to provide a Certificate of Self-Insurance that meets at minimum, the requirements identified above.

**A. TARGET POPULATION**

Mental Health Community Educational Events services shall be provided to Orange County residents to support individuals or groups who are able to produce meaningful artistic event(s) to a diverse population that can deliver an effective message towards reducing mental health stigma.

**B. SERVICES TO BE PROVIDED**

1. Organizations may submit applications for any of the following type of events:
  - a. Theatre
  - b. Dance
  - c. Skit
  - d. Reading (poetry, stories)
  - e. Video
  - f. Film Series
  - g. Art Exhibit
  - h. Or other form of event(s) as agreed in advance by the County
2. Organizations may submit applications to contract with the County for the services described in this RFA, all applications must meet **all** of the following minimum qualifications;
  - a. Sufficient information is provided about the proposed event(s) to allow adequate review.
  - b. The intended audience is Orange County residents.
  - c. The event(s) will be delivered to Orange County residents with a focus on underserved and unserved cultural groups, including but not limited to: youth, older adults, lesbian, gay, bisexual, transgender, questioning and intersex (LGBTQI), Veterans, deaf and hard of hearing, monolingual non-English speakers or some other sufficiently justified group. The event may be in English or in other languages including Spanish, Vietnamese, Korean, Farsi, American Sign Language, Arabic or others appropriate to the proposed audience.
  - d. The venue/location for the performance(s)/event(s) shall be located within Orange County.
  - e. The venue/location for the performance(s)/event(s) shall be appropriate for the intended audience.
  - f. The cost of producing an event(s) is approximately at thirty dollars (\$30.00) per planned number of attendees.
  - g. The number of people the event(s) proposed will reach is at or above one hundred (100).
  - h. At least one fourth of the performers/artists for the performance(s)/event(s) shall be mental health consumers and/or family members of mental health consumers.
  - i. The sponsoring group and/or person shall have had prior experience in coordinating and/or producing the proposed type of performance(s)/event(s).



- j. The performance(s) will occur on or before June 30, 2018 as specified in the Agreement for Mental Health Community Educational Events (Attachment I).
- k. The message of the event about mental health is positive and designed to reduce stigma.
- l. The publicity is appropriate to the intended audience.
- m. The event(s) appears to be appropriate for all ages (i.e. family friendly and or family-oriented).
- n. It is a quality artistic event(s) as indicated by prior reviews, multiple requests for this specific event, expert opinion or by some other appropriate evidence. If this event(s) has not been produced before, information about past events by the same group or individual can serve as indicators of the potential quality of this event.
- o. Individual support will be made available immediately following each performance(s)/event(s) for referral and/or linkage to various County and community-based behavioral health services.
- p. Behavioral health service resources will be made available to persons in attendance at the event, and the County's website (<http://www.ochealthinfo.com/behavioral>) may be accessed for information.
- q. If any of the above criteria cannot be met, justification must be included in the application and approval will be at the sole discretion of the County.

### **C. PERFORMANCE OUTCOMES**

The performance objectives are art event driven. The Mental Health Service Act emphasizes outcomes-based program<sup>6</sup> design. This means that organizations for the Mental Health Community Educational Events should, from the planning stage on, focus on the impact the program will have on participants in reducing mental health stigma and develop ways of evaluating and reporting this impact. Therefore, applicants must propose to implement an evaluation of their efforts, using process and outcome performance measures that document the effectiveness of the art event(s). It is strongly recommended to use measurement tools and scales effective in evaluating art events (e.g., pre/post-tests of stigmatizing attitudes, prejudice, and discrimination).<sup>7</sup>

<sup>6</sup> California Mental Health Services Act. Prevention and Early Intervention Clearing House. Retrieved June 51, 2011. <http://www.preventionearlyintervention.org/go/PEIImplementers/OutcomesandEvaluation.aspx>

<sup>7</sup> Corrigan Patric. *Toolkit for evaluating programs meant to erase the stigma of mental illness*. Retrieved December 22, 2011. <http://www.dmh.ca.gov/peistatewideprojects/docs/CorriganToolkitforEvaluation.pdf>

- A. Use the Application Preparation Checklist (Form A – Attachment II) to plan and monitor solicitation application preparation as well as to verify completion of all materials before submission.
- B. Applicant's application must clearly meet all of the requirements of this solicitation.
- C. Applicants should review all requirements and instructions to ensure that each requirement is met. HCA shall not be responsible for any oral instructions given by any employees of HCA in regard to the application instructions, specifications, or application documents as described in this solicitation.

Applications and requested documents must be electronically uploaded in PDF format, via BidSync and e-mailed to the Procurement Administrator listed on page two (2) of this solicitation. Upload the following in one (1) file labeled [Solicitation Name]-[Applicant Name]:

- 1. Agency information and applicable documents/information (Section IV.A.)
- 2. Event Application (Section IV.B.)
- 3. Proposal Checklist (Form A – Attachment II)
- 4. Agency Description (Form B – Attachment II)
- 5. Board of Directors (Form C – Attachment II)
- 6. Attestation (Attachment I)
- 7. Proposed Budget Template (Attachment III)
- 8. Benchmarks, Deliverables, and Installments Planning Template (Attachment IV)

Allow sufficient time to upload all required files. After the 2:00 p.m. Pacific Time application deadline, BidSync will not allow any uploads. **If all files are not uploaded successfully by the 2:00 p.m. Pacific Time application deadline, your application will not be accepted.**

- D. Provide accurate and honest information. Reviewers tend to respond more favorably to a candid account of problems and a realistic plan to address them, than a glossing over of an apparent problematic situation. Information that is deliberately inaccurate may prompt an investigative review and will affect the evaluation of the application.
- E. Provide documentation where necessary, including items such as forms, licenses, etc.
- F. If you omit any required information or data, explain why.
- G. Do not include home addresses, home phone numbers, and/or personal email addresses for any employee, volunteer, Board member, etc. in your applications.

**A. AGENCY INFORMATION**

1. Complete the Agency Description (Form B – Attachment II). Ensure Form B is signed prior to scanning and uploading into BidSync.
2. Complete the Board of Directors (Form C – Attachment II).
3. Provide copies of the documents below. Include an index of all the documents included, and an explanation for any document requested but not provided.
  - a. If incorporated, Board of Directors resolution empowering a Corporate Officer to act on behalf of the organization by his/her signature alone.
  - b. If not incorporated, documentation empowering an Authorized Representative to act on behalf of the organization by his/her signature alone.
  - c. Fictitious Business Name statement filed with the County Clerk and proof of publication.
  - d. Partnership papers and/or joint venture agreements.
  - e. Evidence of federal/state tax status.
  - f. IRS W-9 Form: Request for Taxpayer Identification Number and Certification.
  - g. Business License/Certifications/Conditional Use Permit (CUP).
  - h. Recent financial statement prepared by an independent Certified Public Accounting (CPA) firm.
  - i. Any audits, reviews, or inspection reports completed by a CPA firm, regulatory agency (e.g., Occupational Safety and Health Administration), or other government agency within the last twelve (12) months.
  - j. Data Universal Number System (DUNS): A unique 9-digit identification number required by the federal government as part of their financial request and reporting process, which can be obtained free of charge from Dun and Bradstreet's website ([www.dnb.com](http://www.dnb.com)) or by calling (866) 705-5711. Every applicant is required to provide a DUNS number regardless of the funding source of this solicitation.
4. Acknowledgement that you will submit a copy of your organization's insurance certificates and endorsements to the County prior to the services start date, and that the limits will, at a minimum, meet the minimum limits referenced in Section I.J. of this solicitation.
5. Describe any pending audits, pending litigation, and/or investigation involving the organization. Limit your response to one-half (1/2) page of text for each instance.
6. Briefly describe any performance issues and/or audit or review of any contractual documents (e.g., invoices, units of service reports, etc.) within the last two (2) years that resulted in a corrective action plan, reimbursement of money to funder, investigation, and/or termination of any contract(s) between your organization and the County, other government entity, and/or

private organization. Failure to disclose performance issues (as identified above) may result in disqualification of your application.

For each performance issue include:

- a. The type of contract, contract term (dates), funding amount and services provided.
  - b. The issues and circumstances.
  - c. How and when the issues were resolved.
  - d. Your plans to ensure that the issues will not reoccur in future contracts.
7. Attestation Form - ensure the form is signed prior to scanning and uploading into BidSync. Upload the Attestation Form only; do not upload the pages containing the contracting requirements.

## **B. EVENT APPLICATION**

1. Name of art event(s).
2. Describe each art event based on the following criteria:
  - a. Type of event;
  - b. Targeted audience;
  - c. Describe the impact your event(s) will have on stigma related to mental illness. Explain how the event helps to reduce mental health stigma in the targeted audience and how the event will change ideas, feelings and/or reactions to mental illness;
  - d. If the proposed art event(s) has been previously performed or shown, indicate where, when, and what were the outcomes? Include copies of any reviews;
  - e. Identify the performers or artists who will participate. Specify if any performers/artists have experience with mental illness, personally or as a family member. Identify the percentage of all performers/artists that have this experience;
  - f. Estimated number of attendees;
  - g. Promotional strategies (i.e. how the targeted audience will be informed about the event);
  - h. Number of times the event will be performed or shown and length of time of the event(s);
  - i. The language(s) used to perform the event(s) (e.g Sign Language, English, Spanish, Farsi, Korean, etc.);
  - j. The location(s) of the event(s);
  - k. Anticipated date(s) the event(s) will occur: and
  - l. Any other relevant information you would like us to know.

**3. Event Costs**

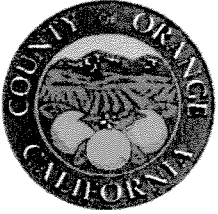
What is the anticipated cost to produce this event(s)?

- a. Provide a cost break down by using the Proposed Budget form (Attachment III) in terms of administrative costs (if any), labor/personnel costs, and services & supplies/materials costs.
- b. Provide a Budget Narrative that supports and justifies the cost of the event(s).

**4. Performance Outcomes**

Please include sample evaluation tools to be used in evaluating the art event(s).

- a. Describe the plan to evaluate and measure the art event(s). Please include a description or sample of all evaluation instruments intended to measure impact.
  - 1) Process evaluation uses appropriate tools to measure and track units of service utilization. This may include number of individuals and families served and events coordinated via the services/activities. Please provide units of service (numbers of participants/event) based on a 12-month period. Examples may include the following: Number, type, and relevance of art sessions held; regularity and outcomes of team meetings and planning sessions.
  - 2) Impact evaluation will determine if intervention had effect by measuring changes and these changes may be evaluated through self-reported improvement resulting from the art event(s) provided. Overall improvement in psychosocial indicators may be used and are highly encouraged to measure program impact. Examples of measures may include: change in participants' knowledge, attitudes, behavioral intentions, self-efficacy, values, beliefs, ideas, feelings, and/or reactions to mental illness.
- b. Complete the Benchmarks, Deliverables, and Installments Planning Template (Attachment IV).



# Revision to ASR and/or Attachments

12

**Date:** May 22, 2015  
**To:** Clerk of the Board of Supervisors  
**CC:** County Executive Office  
**From:** Mark Refowitz, Health Care Agency, Agency Director  
**Re:** ASR Control #: 15-000108, Meeting Date 06/02/15 Agenda Item No. # 12  
**Subject:** Master Agreement for Mental Health Community Educational Events

RECEIVED  
2015 MAY 27 AM 10:34  
CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS

Explanation: The Health Care Agency would like to make the following changes:

☒ Revised Recommended Action(s)

1. Approve the Master Agreement with various providers for provision of ~~Community Based Stigma Reduction Art Event Services~~ Mental Health Community Educational Events Services for the period of July 1, 2015 through June 30, 2017, for a total aggregate maximum obligation of \$428,666.

☒ Make modifications to the:

☒ Subject      ☒ Background Information      ☒ Summary

Subject: Master Agreement for ~~Community Based Stigma Reduction Art Event Services~~ Mental Health Community Educational Events

Summary: The Health Care Agency requests approval of the Master Agreement for the provision of ~~Community Based Stigma Reduction Art Event Services~~ Mental Health Community Educational Events Services with various providers to reduce negative attitudes and behaviors towards mental illness in the community.

Background Information:

On March 20, 2012, your Honorable Board approved the Master Agreement for the provision of Community-Based Stigma Reduction Art Event Services ~~henceforth Stigma Reduction Art Events~~, for the period March 21, 2012 through June 30, 2015, with an aggregate maximum obligation of \$475,000. This Master Agreement was accompanied by a Request for Application (RFA), inviting qualified individuals and/or organizations to submit proposals to provide mental illness stigma reduction art events. This RFA was an on-going open bid process that was closed on January 31, 2015.

The proposed Master Agreement will allow mental health community educational events services to be provided ~~continue~~ through June 30, 2017, for a total maximum obligation of \$428,666. Once approved, the Master Agreement will provide flexibility to evaluate and contract for mental health community educational events based upon community needs while addressing the unique terms and conditions for each event. The Health Care Agency (HCA) will re-release a new ~~the~~ RFA to the public. Funds will be awarded based upon the merit and content of each event and within the terms and conditions of this Master Agreement, until either the funds have been exhausted, or the deadline of the RFA posting.

~~Stigma related to mental illness includes negative attitudes, stereotypes, labels, and misperceptions about people with mental illness. People living with mental illness internalize these prejudicial attitudes and experience low self-esteem and hopelessness. The results can lead to delays in seeking treatment, social isolation, discrimination, prolonged suffering and even suicide. Through artistic events such as plays, art shows, videos, film series, poetry readings, dance productions, and other similar events, the stigma reduction art events will strive to educate, dispel myths, reduce negative thinking and behaviors, and affect positive attitudes toward mental illness in the community.~~

The goal of mental health community educational events is to educate the community regarding mental illness and the stigma associated with both seeking treatment for a mental illness and living with a mental illness. Stigma related to mental illness includes negative attitudes, stereotypes, labels, and misperceptions about people with mental illness. People living with mental illness internalize these prejudicial attitudes and experience low self-esteem and hopelessness. The results can lead to delays in seeking treatment, social isolation, discrimination, prolonged suffering and even suicide. Mental health community educational events strive to reduce these negative outcomes, stigma, myths about mental illness, negative thinking and behaviors towards people with mental illness, and affect positive attitudes toward mental illness in the community. These events may include artistic formats such as plays,

art shows, videos, film series, poetry readings, dance productions, and other similar events to engage people of all ages and underserved cultural groups.

During the period of March 2012 to January 2015, HCA received eight proposals in response to the RFA, of which five proposals met the minimum established criteria. Of these, successful negotiations to host the events within the contract period were achieved with the following providers:

- Multi-Ethnic Collaborative of Community Agencies (MECCA) in January 2013
- National Alliance on Mental Illness (NAMI) in January 2013
- Norooz Clinic Foundation (Norooz) in December 2014
- MECCA (second project proposal) in February 2015

Under the current Master Agreement, two mental health education stigma reduction art events were implemented along with two others currently in progress. Each of the completed events collected information to determine the effectiveness of the art events and measure shifts in attitudes and perceptions about mental illness and stigma.

The first stigma reduction art event, organized by MECCA, consisted of a series of community-based art workshops and exhibits that were concluded with a one-day Art Festival event that featured artwork by consumers and/or family members and artists from different ethnic communities. A total of 105 consumers participated in the workshops. 1,000 individuals viewed the artwork and an additional 800 individuals attended the one-day Art Festival event.

Event Outcomes as measured by pre- and post-tests included:

- 69% of workshop participants improved their overall well-being.
- 58% of workshop participants surveyed experienced a decrease in the negative attitudes towards individuals with a mental illness.
- 67% of those viewing the art exhibits indicated that they positively changed their perception about individuals who have a mental illness.
- 73% of those attending the art festival event reported a positive change in their perspective about individuals who have a mental illness.

For the second event, NAMI Orange County organized a series of stigma art events during the summer of 2013. These included: 1) A play produced by the Department of Theater and Dance at California State University, Fullerton; 2) An art exhibit titled "Connect-Heal-End Stigma"; and, 3) 18 art workshops organized through the Orange County Center for Contemporary Art. Each of these events were designed to promote mental health awareness. A total of



300 individuals viewed the play, 3,000 individuals attended the art exhibit and 300 individuals, including consumers and their families, participated in the workshops.

Event Outcomes as measured by pre- and post-tests included:

- 68% of those surveyed indicated that the play helped them become more aware of the importance of mental health.
- 71% of those surveyed at the Exhibit indicated that they learned that people with mental illness can be successful in life.
- 77% of those surveyed indicated that attending the exhibit positively changed their view of people who have mental illness.
- 69% of those surveyed at the workshops indicated that in the future, they would feel more comfortable when they met someone with a mental illness.

Two additional stigma reduction art events including art workshops and exhibits are currently being organized by Nooruz Clinic Foundation and MECCA. Similar outcomes data will be collected upon completion of these events. The facilitators of these art events will track the number of participating individuals and families and make available individual support, outreach services, and information regarding various behavioral health services resources.

The Health Care Agency requests that your Board approve the Master Agreement for the provision of ~~Community-Based Stigma Reduction Art Events~~ Mental Health Community Educational Events – as referenced in the Recommended Actions.

☒ Revised Attachments (attach revised attachment(s) and redlined copy(s))

Attachment A – Master Agreement for ~~Community-Based Stigma Reduction Art Event Services~~ Mental Health Community Educational Events between the County of Orange and various providers

Attachment B – Redline Version to Attachment A

Attachment C – Request for Applications – ~~Community-Based Stigma Reduction Art Event Services~~ Mental Health Community Educational Events

1 AGREEMENT FOR PROVISION OF  
2 MENTAL HEALTH COMMUNITY EDUCATIONAL EVENT SERVICES  
3 BETWEEN  
4 COUNTY OF ORANGE  
5 AND  
6 «CONTRACTOR\_NAME»  
7 JULY 1, 2015 THROUGH JUNE 30, 2017

8  
9 THIS AGREEMENT entered into this «Date» day of «Month» «Year», which date is enumerated for  
10 purposes of reference only, is by and between the COUNTY OF ORANGE (COUNTY) and  
11 «CONTRACTOR\_NAME», a «Type\_of\_Legal\_Entity» (CONTRACTOR). This Agreement shall be  
12 administered by the County of Orange Health Care Agency (ADMINISTRATOR).

13  
14 W I T N E S S E T H :  
15

16 WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Mental Health  
17 Community Educational Event Services described herein to the residents of Orange County; and

18 WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and  
19 conditions hereinafter set forth:

20 NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

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**REFERENCED CONTRACT PROVISIONS**

**Term:** July 1, 2015 through June 30, 2017

**Aggregate Maximum Obligation:** \$428,666

**Basis for Reimbursement:** Negotiated Amount

**Payment Method:** Installments Based Upon Benchmark Achievement

**Contractor Term:**

«Event\_\_1\_NameType» «Event\_Term\_1»

«Event\_\_2\_NameType» «Event\_Term\_2»

«Event\_\_3\_NameType» «Event\_Term\_3»

«Event\_\_4\_NameType» «Event\_Term\_4»

«Event\_\_5\_NameType» «Event\_Term\_5»

«Event\_\_6\_NameType» «Event\_Term\_6»

**CONTRACTOR DUNS Number:** «DUNS\_No»

**CONTRACTOR TAX ID Number:** «Tax\_ID\_No»

**Notices to COUNTY and CONTRACTOR:**

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

**CONTRACTOR:** «Contractor\_Name1»  
«Contractor\_Address»  
«Contractor\_Address\_2»  
«Contractor\_City», «Contractor\_State» «Contractor\_Zip»  
Attention: «Contractor\_Contact\_Person», «Contact\_Person\_Title»  
«Contact\_Person\_Email»

//

## I. ACRONYMS

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

A. AES	Advanced Encryption Standard
B. ARRA	American Recovery and Reinvestment Act
C. BCP	Business Continuity Plan
D. CCC	California Civil Code
E. CCR	California Code of Regulations
F. CD/DVD	Compact Disc/Digital Video or Versatile Disc
G. CEO	County Executive Office
H. CFR	Code of Federal Regulations
I. CHHS	California Health and Human Services Agency
J. CHPP	COUNTY HIPAA Policies and Procedures
K. CIPA	California Information Practices Act
L. CMPPA	Computer Matching and Privacy Protection Act
M. COI	Certificate of Insurance
N. DHCS	Department of Health Care Services
O. DoD	Department of Defense
P. DRP	Disaster Recovery Plan
Q. DRS	Designated Record Set
R. E-Mail	Electronic Mail
S. ePHI	Electronic Protected Health Information
T. FIPS	Federal Information Processing Standards
U. FTE	Full Time Equivalent
V. GAAP	General Accepted Accounting Principles
W. HCA	Health Care Agency
X. HHS	Health and Human Services
Y. HIPAA	Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
Z. HSC	California Health and Safety Code
AA. ICC	Intensive Care Coordination
AB. ID	Identification
AC. IEA	Information Exchange Agreement
AD. ISO	Insurance Services Office
AE. MHSA	Mental Health Services Act
AF. OIG	Office of Inspector General
AG. OMB	Office of Management and Budget

1	AH. OPM	Federal Office of Personnel Management
2	AI. PC	State of California Penal Code
3	AJ. PEI	Prevention and Early Intervention
4	AK. PCP	Primary Care Provider
5	AL. PHI	Protected Health Information
6	AM. PI	Personal Information
7	AN. PII	Personally Identifiable Information
8	AO. P&P	Policy and Procedure
9	AP. PRA	Public Record Act
10	AQ. SIR	Self-Insured Retention
11	AR. SRT	Suicide Response Team
12	AS. TAY	Transitional Age Youth
13	AT. The HITECH Act	The Health Information Technology for Economic and Clinical Health Act,
14		Public Law 111-005
15	AU. USC	United States Code
16	AV. WIC	State of California Welfare and Institutions Code

## 17 18 **II. ALTERATION OF TERMS**

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

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

## 26 27 **III. ASSIGNMENT OF DEBTS**

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

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#### IV. COMPLIANCE

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

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

2. CONTRACTOR has the option to adhere to HCA's Compliance Program and Code of Conduct or establish its own, provided CONTRACTOR's Compliance Program and Code of Conduct have been verified to include all required elements by ADMINISTRATOR's Compliance Officer as described in subparagraphs below.

3. If CONTRACTOR elects to adhere to HCA's Compliance Program and Code of Conduct; the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of award of this Agreement a signed acknowledgement that CONTRACTOR shall comply with HCA's Compliance Program and Code of Conduct.

4. If CONTRACTOR elects to have its own Compliance Program and Code of Conduct then it shall submit a copy of its Compliance Program, Code of Conduct and relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement. ADMINISTRATOR's Compliance Officer shall determine if CONTRACTOR's Compliance Program and Code of Conduct contains all required elements. CONTRACTOR shall take necessary action to meet said standards or shall be asked to acknowledge and agree to HCA's Compliance Program and Code of Conduct if the CONTRACTOR's Compliance Program and Code of Conduct does not contain all required elements.

5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the CONTRACTOR's Compliance Program and Code of Conduct contains all required elements, CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR's Compliance Program, Code of Conduct and related policies and procedures.

6. Failure of CONTRACTOR to submit its Compliance Program, Code of Conduct and relevant policies and procedures shall constitute a material breach of this Agreement. Failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.

B. SANCTION SCREENING – CONTRACTOR shall adhere to all screening policies and procedures and screen all Covered Individuals employed or retained to provide services related to this Agreement to ensure that they are not designated as Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against the General Services Administration's Excluded Parties List System or System for Award Management, the Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the California Medi-Cal Suspended and Ineligible Provider List and/or any other list or system as identified by the ADMINISTRATOR.

//



1 1. Covered Individuals includes all contractors, subcontractors, agents, and other persons who  
 2 provide health care items or services or who perform billing or coding functions on behalf of  
 3 ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per-diem  
 4 employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to  
 5 work more than one hundred sixty (160) hours per year; except that any such individuals shall become  
 6 Covered Individuals at the point when they work more than one hundred sixty (160) hours during the  
 7 calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are  
 8 made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and  
 9 procedures.

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

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

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

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

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

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

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

36 //

37 //

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

C. COMPLIANCE TRAINING – ADMINISTRATOR shall make General Compliance Training and Provider Compliance Training, where appropriate, available to Covered Individuals.

1. CONTRACTOR shall use its best efforts to encourage completion by Covered Individuals; provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated representative to complete all Compliance Trainings when offered.

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

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

4. Each Covered Individual attending training shall certify, in writing, attendance at compliance training. CONTRACTOR shall retain the certifications. Upon written request by ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

## V. CONFIDENTIALITY

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

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

## VI. DELEGATION, ASSIGNMENT AND SUBCONTRACTS

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

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

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

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

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

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

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

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

32 1. After approval of a subcontract, ADMINISTRATOR may revoke the approval of a  
33 subcontract upon five (5) calendar days' written notice to CONTRACTOR if the subcontract  
34 subsequently fails to meet the requirements of this Agreement or any provisions that  
35 ADMINISTRATOR has required.

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

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

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

## **VII. EMPLOYEE ELIGIBILITY VERIFICATION**

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

## **VIII. EQUIPMENT**

A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all property of a Relatively Permanent nature with significant value, purchased in whole or in part by ADMINISTRATOR to assist in performing the services described in this Agreement. "Relatively Permanent" is defined as having a useful life of one year or longer. Equipment which costs \$5,000 or over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes and other taxes, and installation costs, or electronic equipment that costs less than \$600 but may contained PHI or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not limited to phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of Equipment purchased, in whole or in part, with funds paid pursuant to this Agreement shall be depreciated according to GAAP.

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

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

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

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

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

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

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

## **IX. EXPENDITURE REPORT**

A. No later than sixty (60) calendar days following completion of mental health community educational event specified in this Agreement, CONTRACTOR shall submit to ADMINISTRATOR, for informational purposes only, an Expenditure Report. Such report shall be prepared in accordance with the procedure that is provided by ADMINISTRATOR and generally accepted accounting principles.

B. CONTRACTOR may be required to submit periodic Expenditure Reports throughout the term of the Agreement.

## **X. FACILITIES, PAYMENTS AND SERVICES**

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

# **XI. INDEMNIFICATION AND INSURANCE**

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

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

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

D. All SIRs and deductibles shall be clearly stated on the COI. If no SIRs or deductibles apply, indicate this on the COI with a zero (0) by the appropriate line of coverage. Any SIR or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the CEO/Office of Risk Management upon review of CONTRACTOR's current audited financial report.

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

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F. QUALIFIED INSURER

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

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

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

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

H. REQUIRED COVERAGE FORMS

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

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

I. REQUIRED ENDORSEMENTS – The Commercial General Liability policy shall contain the following endorsements, which shall accompany the COI:

1. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, and agents as Additional Insureds.

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

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

K. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

L. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation may constitute a material breach of the Agreement, upon which the COUNTY may suspend or terminate this Agreement.

M. If CONTRACTOR's Professional Liability policy is a "claims made" policy, CONTRACTOR shall agree to maintain Professional Liability coverage for two (2) years following completion of Agreement.

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

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

P. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If CONTRACTOR does not deposit copies of acceptable COIs and endorsements with COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, this Agreement may be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled to all legal remedies.

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

#### R. SUBMISSION OF INSURANCE DOCUMENTS

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

- a. Prior to the start date of this Agreement.
- b. No later than the expiration date for each policy.
- c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding changes to any of the insurance types as set forth in Subparagraph G. of this Agreement.

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

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

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

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

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

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

## **XII. INSPECTIONS AND AUDITS**

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

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

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1 C. AUDIT RESPONSE

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

7 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement  
8 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said  
9 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of  
10 the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement  
11 is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies  
12 provided by law, reduce any amount owed CONTRACTOR by an amount not to exceed the  
13 reimbursement due COUNTY.

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

18  
19 **XIII. LICENSES AND LAWS**

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

28 B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

29 1. CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) calendar days  
30 of the award of this Agreement:

31 a. In the case of an individual contractor, his/her name, date of birth, social security  
32 number, and residence address;

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

36 c. A certification that CONTRACTOR has fully complied with all applicable federal and  
37 state reporting requirements regarding its employees;

d. A certification that CONTRACTOR has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply.

2. Failure of CONTRACTOR to timely submit the data and/or certifications required by Subparagraphs 1.a., 1.b., 1.c., or 1.d. above, or to comply with all federal and state employee reporting requirements for child support enforcement, or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement; and failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute grounds for termination of this Agreement.

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

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

1. ARRA of 2009.
2. WIC, Division 5, Community Mental Health Services.
3. WIC, Division 6, Admissions and Judicial Commitments.
4. WIC, Division 7, Mental Institutions.
5. HSC, §§1250 et seq., Health Facilities.
6. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
7. CCR, Title 9, Rehabilitative and Developmental Services.
8. CCR, Title 17, Public Health.
9. CCR, Title 22, Social Security.
10. CFR, Title 42, Public Health.
11. CFR, Title 45, Public Welfare.
12. USC Title 42, Public Health and Welfare.
13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
15. 42 USC §1857, et seq., Clean Air Act.
16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
17. 31 USC 7501.70, Federal Single Audit Act of 1984.
18. P&Ps set forth in MHSA.
19. P&Ps set forth in DHCS Letters.
20. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
21. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

#### 1 **XIV. LITERATURE, ADVERTISEMENTS, AND SOCIAL MEDIA**

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

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

11 C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly  
12 available social media sites) in support of the services described within this Agreement,  
13 CONTRACTOR shall develop social media policies and procedures and have them available to  
14 ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all  
15 forms of social media used to either directly or indirectly support the services described within this  
16 Agreement. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as  
17 they pertain to any social media developed in support of the services described within this Agreement.  
18 CONTRACTOR shall also include any required funding statement information on social media when  
19 required by ADMINISTRATOR.

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

#### 22 **XV. MAXIMUM OBLIGATION**

23 The Aggregate Maximum Obligation of COUNTY for services provided in accordance with all  
24 agreements for Mental Health Community Educational Event Services is as specified in the Referenced  
25 Contract Provisions of this Agreement. This specific Agreement with CONTRACTOR is only one of  
26 several agreements to which this Aggregate Maximum Obligation applies. It therefore is understood by  
27 the parties that reimbursement to CONTRACTOR will be only a fraction of this Aggregate Maximum  
28 Obligation.  
29

#### 30 **XVI. NONDISCRIMINATION**

##### 31 **A. EMPLOYMENT**

32 1. During the term of this Agreement, CONTRACTOR and its Covered Individuals shall not  
33 unlawfully discriminate against any employee or applicant for employment because of his/her race,  
34 religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,  
35 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
36 orientation, or military and veteran status. Additionally, during the term of this Agreement,  
37

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

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

10 3. CONTRACTOR shall not discriminate between employees with spouses and employees  
 11 with domestic partners, or discriminate between domestic partners and spouses of those employees, in  
 12 the provision of benefits.

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

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

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

27 B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not  
 28 discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities  
 29 on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental  
 30 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender  
 31 expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the  
 32 Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights  
 33 Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division  
 34 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the  
 35 Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other

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1 pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and  
 2 regulations, as all may now exist or be hereafter amended or changed. For the purpose of this  
 3 Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one  
 4 or more of the factors identified above:

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

14 C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all  
 15 participants through a written statement that CONTRACTOR's and/or subcontractor's participants may  
 16 file all complaints alleging discrimination in the delivery of services with CONTRACTOR,  
 17 subcontractor, and ADMINISTRATOR or COUNTY's Patient Rights Office.

18 1. Whenever possible, problems shall be resolved informally and at the point of service.  
 19 CONTRACTOR shall establish an internal informal problem resolution process for participants not able  
 20 to resolve such problems at the point of service. Participants may initiate a grievance or complaint  
 21 directly with CONTRACTOR either orally or in writing.

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

24 b. Throughout the problem resolution and grievance process, participant rights shall be  
 25 maintained, including access to the Patients' Rights Office at any point in the process. Participants shall  
 26 be informed of their right to access the Patients' Rights Office at any time.

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

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

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

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

## 9 10 **XVII. NOTICES**

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

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

16 2. When faxed, transmission confirmed;

17 3. When sent by Email; or

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

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

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

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

## 30 31 **XVIII. NOTIFICATION OF DEATH**

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

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

37 //

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

6 2. WRITTEN NOTIFICATION

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

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

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

18  
 19 **XIX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

27  
 28 **XX. RECORDS MANAGEMENT AND MAINTENANCE**

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

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

34 C. CONTRACTOR shall ensure all appropriate state and federal standards of documentation,  
 35 preparation, and confidentiality of records related to participant, participant and/or patient records are  
 36 met at all times.

37 //



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

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

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

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

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

#### 14 15 **XXI. RESEARCH AND PUBLICATION**

16 CONTRACTOR shall not utilize information and/or data received from COUNTY, or arising out of,  
17 or developed, as a result of this Agreement for the purpose of personal or professional research, or for  
18 publication.

#### 19 20 **XXII. MINIMUM WAGE LAWS**

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

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

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

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### XXIII. SEVERABILITY

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

### XXIV. SPECIAL PROVISIONS

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

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

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

1. Funding travel or training (excluding mileage or parking).
2. Making phone calls outside of the local area unless documented to be directly for the purpose of participant care.
3. Payment for grant writing, consultants, certified public accounting, or legal services.
4. Purchase of artwork or other items that are for decorative purposes and do not directly contribute to the quality of services to be provided pursuant to this Agreement.

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

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

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

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

## **XXV. STATUS OF CONTRACTOR**

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

## **XXVI. TAX LIABILITY**

CONTRACTOR shall report all income and pay all applicable federal, state, and local income taxes or similar levies as a result of any monies paid CONTRACTOR pursuant to this Agreement. CONTRACTOR shall indemnify, defend and hold COUNTY harmless from all liability, claims, losses, demands, including defense costs and attorney fees, whether resulting from court action or otherwise, in the event that any taxing authority or other agency attempts to obtain from COUNTY any such monies, penalties, and/or interest imposed resulting from any failure of CONTRACTOR to comply with the provisions of this paragraph.

## **XXVII. TERM**

A. This specific Agreement with CONTRACTOR is only one of several agreements to which the term of this Agreement applies. This specific Agreement shall commence as specified in the Reference Contract Provisions of this Agreement or the execution date, whichever is later. This specific Agreement shall terminate as specified in the Referenced Contract Provisions of this Agreement, unless otherwise sooner terminated as provided in this Agreement; provided, however, CONTRACTOR shall

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1 be obligated to perform such duties as would normally extend beyond this term, including but not  
2 limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

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

## 5 6 **XXVIII. TERMINATION**

7 A. Either party may terminate this Agreement, without cause, upon «Term\_wo\_Cause\_Notice»  
8 calendar days written notice given the other party.

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

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

- 15 1. The loss by CONTRACTOR of legal capacity.
- 16 2. Cessation of services.
- 17 3. The delegation or assignment of CONTRACTOR's services, operation or administration to  
18 another entity without the prior written consent of COUNTY.

### 19 **D. CONTINGENT FUNDING**

- 20 1. Any obligation of COUNTY under this Agreement is contingent upon the following:
  - 21 a. The continued availability of federal, state and county funds for reimbursement of  
22 COUNTY's expenditures, and
  - 23 b. Inclusion of sufficient funding for the services hereunder in the applicable budget  
24 approved by the Board of Supervisors.

25 2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend,  
26 terminate or renegotiate this Agreement upon thirty (30) calendar days written notice given  
27 CONTRACTOR.

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

32 F. In the event this Agreement is terminated by either party, after receiving a Notice of  
33 Termination CONTRACTOR shall do the following:

- 34 1. Comply with termination instructions provided by ADMINISTRATOR in a manner which  
35 is consistent with recognized standards of quality care and prudent business practice.
- 36 2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract  
37 performance during the remaining contract term.

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

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

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

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

#### **XXIX. THIRD PARTY BENEFICIARY**

Neither party hereto intends that this Agreement shall create rights hereunder in third parties including, but not limited to, any subcontractors or any participants provided services pursuant to this Agreement.

#### **XXX. WAIVER OF DEFAULT OR BREACH**

Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any default or any breach by CONTRACTOR shall not be considered a modification of the terms of this Agreement.

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

3  
4 «CONTRACTOR\_NAME»  
5  
6

7 BY: \_\_\_\_\_

DATED: \_\_\_\_\_

8  
9 TITLE: \_\_\_\_\_  
10  
11

12 BY: \_\_\_\_\_

DATED: \_\_\_\_\_

13  
14 TITLE: \_\_\_\_\_  
15  
16

17  
18 COUNTY OF ORANGE  
19  
20

21 BY: \_\_\_\_\_

DATED: \_\_\_\_\_

22 HEALTH CARE AGENCY  
23  
24

25 APPROVED AS TO FORM  
26 OFFICE OF THE COUNTY COUNSEL  
27 ORANGE COUNTY, CALIFORNIA  
28

29  
30 BY:  \_\_\_\_\_

DATED: 5/22/15

31 DEPUTY *For Massoud Shamel*  
32  
33

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

EXHIBIT A  
TO AGREEMENT FOR PROVISION OF  
MENTAL HEALTH COMMUNITY EDUCATIONAL EVENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
«CONTRACTOR NAME»  
JULY 1, 2015 THROUGH JUNE 30, 2017

### **I. MENTAL HEALTH COMMUNITY EDUCATIONAL EVENT(S) DESIGNATION**

CONTRACTOR agrees to provide mental health community educational event services in the specified category and/or categories pursuant to the terms and conditions specified in this Agreement for provision of such services by and between COUNTY and CONTRACTOR. CONTRACTOR and COUNTY may mutually agree, in writing, to add or delete services to be provided by CONTRACTOR.

Theatre	«Theatre»
Dance	«Dance»
Skit	«Skit»
Poetry Reading	«Poetry Reading»
Video	«Video»
Film Series	«Film Series»
Art Exhibit	«Art Exhibit»
Other («Other Description»)	«Other»

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EXHIBIT B  
TO AGREEMENT FOR PROVISION OF  
MENTAL HEALTH COMMUNITY EDUCATIONAL EVENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
«CONTRACTOR\_NAME»  
JULY 1, 2015 THROUGH JUNE 30, 2017

**I. COMMON TERMS AND DEFINITIONS**

A. The parties agree to the following terms and definitions, and to those terms and definitions which, for convenience, are set forth elsewhere in the Agreement.

1. Activity Form means a data collection form used to track each activity in which the group and/or individual participate.

2. Admission means completion of the entry and/or intake process for program participants.

3. Assessment means a professional review and evaluation of an individual's behavioral health needs and conditions in order to determine the most appropriate course of services.

4. At Risk means a state of high stressor and low protective factor that would increase likelihood of development of a mental illness.

5. Behavioral Health Condition means diminished cognitive, emotional, or social abilities, but not to the extent that the criteria for a mental disorder are met.

6. Case Management means the delivery of individual guidance and support services. Case management services include; but are not limited to, referrals and linkages to needed services such as; resources, coaching, and assistance with translation and transportation.

7. Case Management Service Plan means a plan developed to address a participant's goals and objectives identified during screening and assessment. The plan should include participant developed goals, referrals and linkages to appropriate services, and progress and/or milestones achieved.

8. Community-Defined Evidence "validates practices that have a community-defined evidence base for effectiveness in achieving mental health outcomes for underserved communities. It also defines a process underway to nationally develop specific criteria by which practices' effectiveness may be documented using community-defined evidence that eventually will allow the procedure to have an equal standing with evidence-based practices currently defined in the peer reviewed literature." [National Network to Eliminate Disparities Latino Work Group] cited by California DMH, PEI Resource Materials.

9. Consumer means an individual who is utilizing services for the treatment and/or support of a mental health condition.

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10. Early Intervention means the act of intervening, interfering or interceding at the manifestation of a mental health illness, with the intent of measurably improving a mental health problem or to prevent a mental health problem from getting worse.

11. Education/Skill Building Workshop/Class means a workshop/class conducted which has a primary focus of providing information and/or teaching a skill.

12. Engagement means the process by which a trusting relationship between a worker and participant is established with the goal to link the participant to appropriate services.

13. Enrollment means the data entry of a participant's program information into COUNTY's Prevention and Intervention database for purposes of recording and tracking a participant's involvement in the program.

14. Evaluation means the systematic investigation of the value and impact of an intervention or program.

15. Evidence-based Practice means the range of services of well-documented effectiveness. An evidence-based practice has quantitative and qualitative data showing positive outcomes and has been subject to expert/peer review that has determined that a particular approach or strategy has a significant level of evidence of effectiveness.

16. Family Member means any traditional and/or non-traditional support system, significant other, or natural support designated by the participant.

17. Follow-up means ensuring that the participant has linked to the referred service and/or successfully transitioned from one service to another.

18. Group Contacts means two (2) to twelve (12) people meeting on behalf of a participant. This can include case management, education and/or support of family/loved one or similar activities.

19. Group Intervention means the delivery of services to more than one individual or family.

20. Health Education means the practice of educating and teaching individuals and groups of people about behaviors conducive to the promotion, maintenance, and restoration of good physical and behavioral health."

21. Individual Intervention means any strategies or services rendered to a participant on a person-to-person level. Examples include, but are not limited to, education, case management, short-term therapy and life coaching to address individualized goals and objectives.

22. Information Dissemination means the distribution of a collection of facts or data.

Intake means the initial meeting between a participant and a worker to evaluate a participant's issue(s) of concern and determine how a program could best meet his/her needs.

23. Level of Well-being means the state of satisfaction, happiness, and/or in control that a participant feels about his/her present situation/condition as measured by a validated instrument/scale.

24. Linkage means when an individual is connected to programs or services through warm hand-off or follow-up to ensure the connection is made.

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1        25. Media Events means culturally relevant activities conducted by CONTRACTOR which are  
2 coordinated with and publicized by the media, including radio and TV appearances.

3        26. MHSA means the law that provides funding for expanded community mental health  
4 services, also known as "Proposition 63."

5        27. NPP means a document that notifies individuals of uses and disclosures of PHI that may be  
6 made by or on behalf of the health plan or health care provider as set forth in the HIPAA of 1996.

7        28. Outreach means contact with potential participants to link them to appropriate mental health  
8 and supportive services; which may include activities to educate the community about services offered  
9 and requirements for participation in the program.

10       29. Participant means an individual enrolled in a program and who engages in activities aimed  
11 at preventing and/or eliminating the development of mental illness.

12       30. PII means any information that could be readily used to identify a specific person, including  
13 but not limited to: name, address, telephone number, email address, driver's license number, Social  
14 Security number, bank account information, credit card information, or any combination of data that  
15 could be used to identify a specific person, such as birth date, zip code, mother's maiden name and  
16 gender.

17       31. Participant to Volunteer Transition means that an enrolled participant completes the  
18 program and is subsequently recruited as a volunteer, returning to the program to serve in a volunteer,  
19 rather than participant capacity.

20       32. Prevention means the group or individual interventions that occur before the initial onset of  
21 a behavioral health condition. Prevention promotes positive cognitive, social, and emotional  
22 development and encourages a state of well-being that allows the individuals to function well in the face  
23 of changing and sometimes challenging circumstances.

24       33. PEI Plan means the most recent County of Orange MHSA Prevention and Early  
25 Intervention Plan approved by the Orange County MHSA Steering Committee and Board of  
26 Supervisors.

27       34. Program Protocol means the written program description, goals, objectives, and policies  
28 established by CONTRACTOR for the program provided pursuant to this Agreement.

29       35. Promising Practice means programs and strategies that have some quantitative data showing  
30 positive outcomes over a period of time, but do not have enough research or replication to support  
31 generalized outcomes. It has an evaluation component/plan in place to move towards demonstration of  
32 effectiveness; however, it does not yet have evaluation data available to demonstrate positive outcomes.  
33 [The Association of Maternal and Child Health Programs] cited by California DMH, PEI Resource  
34 Materials.

35       36. PHI means individually identifiable health information usually transmitted by electronic  
36 media maintained in any medium as defined in the regulations or for an entity, such as a health plan,  
37 transmitted or maintained in any other medium. It is created or received by a covered entity and relates

to the past, present, or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual.

37. Referral means an individual receives information or contacts for services or programs, or an unsuccessful linkage attempt

38. Social Support means assistance that may include companionship, emotional backing, cognitive guidance, material aid and special services.

39. SRT means a team comprised of trained survivor volunteers who are sent to the scene of a suicide through collaboration with the local law enforcement, coroner's office, and/or crisis response team for the purposes of support and resource linkage.

40. Support Group means a meeting/group, facilitated by program staff, consisting of two (2) or more people (or a number mutually agreed upon in the contract) who have similar experiences and concerns and who meet in order to provide emotional help, advice and encouragement for one another.

41. Stigma means associating negative qualities or stereotypes with having a mental illness.

42. Mental Health Community Educational Event(s) means artistic events such as plays, art shows, videos, slide shows, film series, poetry readings, dance productions and other similar events that focus on reducing negative attitudes and behaviors towards, and the stigma associated with persons with mental illness to specifically educate, dispel myths, reduce negative thinking and behaviors, and affect positive attitudes toward mental illness in the community.

43. Training means the action or method used to transfer skills and/or knowledge to a target audience.

44. Train-the-Trainer means the process in which an individual or group passes on the skills, knowledge, and abilities of course work to others so they may become educators, coaches, tutors, mentors, etc., to disseminate information, material, and skills to others.

45. TAY means participants sixteen (16) to twenty-five (25) years of age.

46. Trauma-Exposed Individuals means those who are exposed to traumatic events or prolonged traumatic conditions, including grief, loss and isolation, including those who are unlikely to seek help from any traditional mental health service.

47. Unduplicated Participant means an individual that is counted only once, despite how many programs the individual is enrolled in during a contractual agreement period.

48. Units of Service means the number and/or type of activities the CONTRACTOR will fulfill during a contractual agreement period.

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

## II. BUDGET

A. COUNTY shall pay CONTRACTOR in accordance with the Payments paragraph in this Exhibit B to the Agreement and the following budget, which is set forth for informational purposes only

1 and may be adjusted by mutual agreement, in writing, of ADMINISTRATOR and CONTRACTOR.

2 «Events\_Budget\_Table»

3 B. FINANCIAL RECORDS - CONTRACTOR shall prepare and maintain accurate and complete  
4 financial records of its cost and operating expenses. Such records will reflect the actual cost of the type  
5 of service for which payment is claimed. Any apportionment of or distribution of costs, including  
6 indirect costs, to or between performances/events or cost centers of CONTRACTOR shall be  
7 documented, and will be made in accordance with generally accepted principles of accounting. A record  
8 of all billings rendered and revenues received from any source, on behalf of persons and/or groups of  
9 interest pursuant to this Agreement, must be reflected in CONTRACTOR's financial records.

10 C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify paragraph  
11 II. above.

### 12 III. PAYMENTS

13 A. COUNTY shall pay CONTRACTOR per event as follows:

#### 14 1. Deposits

15 a. CONTRACTOR shall submit with invoice to ADMINISTRATOR the supporting  
16 documentation for all required deposits which includes, but is not limited to, contact information for  
17 vendor providing equipment, services, and/or venue; date of event or when services will be provided;  
18 description of equipment, services, and/or venue to which the deposit applies; deposit amount(s); and  
19 pertinent cancellation or loss of deposit information.  
20

21 b. Should the performance/event not occur on the specified date(s), CONTRACTOR shall  
22 return such deposit amount(s) in full within twenty (20) calendar days to COUNTY.

23 c. Said deposits paid by COUNTY to CONTRACTOR shall not be used for any other  
24 purpose or expense associated with the performance/event, including but not limited to securing another  
25 location or event date at the same location; transferred for securing another location and/or event date at  
26 another location; or for a price less than, equal to, or greater than supporting documentation provided to  
27 ADMINISTRATOR.

#### 28 2. Installments

29 a. Installments I through III, and/or deposit invoices received with appropriate supporting  
30 documentation, shall be payable by COUNTY to CONTRACTOR based upon successful achievement  
31 of performance/event milestones equivalent to and proportionate with «Paymentreporting\_\_1»,  
32 «Paymentreporting\_\_2», and «Paymentreporting\_\_3» of performance/event completion, as agreed upon  
33 by COUNTY and CONTRACTOR, and specified in the Scope of Work referenced in Exhibit B,  
34 subparagraph IV.B. below.

35 b. The combined total of Installment I, Installment II, and Installment III, and deposit  
36 invoice(s) shall not exceed «Paymentreporting\_\_3» of the total approved budget as referenced in Exhibit  
37 B, subparagraph II.A.

3. Installment IV shall be for an amount equal to the difference between the total approved event budget as referenced in Exhibit B, subparagraph II.A, less expenses paid to CONTRACTOR in aggregate including all deposits and Installments I, II, and III, and shall be submitted within thirty (30) calendar days following successful completion of each performance/event, submission of performance outcomes, and all reporting requirements as specified in this Agreement.

B. CONTRACTOR's billing shall be on a form approved or supplied by COUNTY and provide such information as is required by ADMINISTRATOR. Billings are due in accordance with the installment provisions specified in Exhibit B, III.A., and payments to CONTRACTOR should be released by COUNTY no later than twenty-one (21) calendar days after receipt of the correctly completed billing form.

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

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

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

F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify paragraph III. above.

#### **IV. REPORTS**

A. CONTRACTOR shall maintain records and make statistical reports as required by ADMINISTRATOR and the California State Department of Mental Health on forms provided by either.

B. CONTRACTOR shall submit to ADMINISTRATOR an Expenditure Report for each event. Expenditure Report will be on a form acceptable to, or provided by, ADMINISTRATOR and will report actual costs, for informational purposes only, for CONTRACTOR's event described in the Services paragraph of Exhibit B to this Agreement. The Expenditure Report(s) will be received by ADMINISTRATOR no later than the twentieth (20th) day following the end of the event being reported. CONTRACTOR must request in writing any extensions to the due date of the Expenditure Report(s).

C. CONTRACTOR shall submit periodic programmatic reports to ADMINISTRATOR, which shall be received by ADMINISTRATOR following successful achievement of performance/event milestones equivalent to «Paymentreporting\_\_1», «Paymentreporting\_\_2», and «Paymentreporting\_\_3» as specified in the Scope of Work in Exhibit B, subparagraph IV., and in conjunction with submission of CONTRACTOR's invoice. ADMINISTRATOR may request programmatic reports for milestones in addition to those specified. Programmatic reports shall be in a format(s) approved by ADMINISTRATOR and shall include a description of CONTRACTOR's progress in implementing the

provisions of this Agreement, details of outreach activities and their results, any pertinent facts or interim findings, staff changes, changes in population served, and reasons for any such changes. CONTRACTOR shall be prepared to present and discuss their programmatic reports at their scheduled meetings with ADMINISTRATOR and shall state whether or not it is progressing satisfactorily in achieving all the terms of this Agreement, and if not, shall specify what steps are being taken to achieve satisfactory progress.

D. COUNTY shall develop with CONTRACTOR performance outcome measure guidelines for the purpose of evaluating the impact and/or contribution of CONTRACTOR's services on the well-being of Orange County residents being served under the terms of this Agreement.

E. ADDITIONAL REPORTS – Upon ADMINISTRATOR's request, CONTRACTOR shall make such additional reports as required by ADMINISTRATOR concerning CONTRACTOR's activities as they affect the services hereunder. ADMINISTRATOR shall be specific as to the nature of information requested and allow up to «Addtl\_Rpts» calendar days for CONTRACTOR to respond.

F. CONTRACTOR shall advise ADMINISTRATOR of any special incidents, conditions, or issues that adversely affect the quality or accessibility of services provided by, or under contract with, the COUNTY as identified in the Health Care Agency's policy and procedures.

G. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify paragraph V. above.

## V. SERVICES

### A. CRITERIA

1. CONTRACTOR shall provide sufficient information regarding the proposed performance/event to allow adequate review by ADMINISTRATOR.

2. The CONTRACTOR's performance/event shall be in English and/or in other languages which may include but are not limited to Spanish, Vietnamese, Korean, Farsi, American Sign Language or others appropriate for the proposed audience, as approved by ADMINSTRATOR.

3. The intended audience shall be located within Orange County.

4. The performance/event shall be delivered to one or more of the groups of interest, including but not limited to: youth, adults, older adults, LGBTQI, Veterans, deaf and hard of hearing, monolingual non-English speakers or some other sufficiently justified group.

5. The venue/location for the performance/event shall be located within Orange County.

6. The venue/location for the performance/event shall be appropriate for the intended audience.

7. The number of persons planned to be reached shall be at or above «Minimum\_Attendees».

8. At least one fourth of the performers/artists for the performance/event shall be mental health consumers and/or family members of mental health consumers.

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9. The sponsoring group and/or person shall have had prior experience in coordinating and/or producing the proposed type of performance/event.

10. The performance/event(s), and subsequent costs associated with said performance/event, shall not be outside contract period as specified in the Referenced Contract Provisions of this Agreement.

11. The message of the performance/event(s) about mental health shall be positive and designed to educate; dispel myths; reduce stigma, negative thinking, and behaviors; and affect positive attitudes toward mental illness in the community.

12. The performance/event(s) shall be appropriate for all ages (i.e. family-friendly and/or family oriented).

13. The performance/event shall be a quality artistic production as indicated by prior reviews, multiple requests for this specific production, expert opinion, and/or by some other appropriate evidence. If the performance/event has not been produced before, information about past productions by the same group or individual shall serve as indicators of the potential quality of the performance/event.

14. Individual support shall be made available immediately following each performance/event for referral and/or linkage to various COUNTY and community-based behavioral health service programs.

15. Behavioral health service resources shall be made available to persons in attendance and COUNTY's website: <http://www.ocalthinfo.com/behavioral> may be accessed for information.

#### B. SCOPE OF WORK

«Scope\_of\_Work»

C. CONTRACTOR shall attend meetings with ADMINISTRATOR, as requested and scheduled by ADMINISTRATOR on an as-needed basis, to discuss contractual and other issues related to, but not limited to compliance with policies and procedures, statistics, and reporting.

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

E. CONTRACTOR may recruit, hire, train, and maintain staff that are persons in recovery, and/or family members of persons in recovery.

F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify paragraph IV. above.

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EXHIBIT C  
TO AGREEMENT FOR PROVISION OF  
MENTAL HEALTH COMMUNITY EDUCATIONAL EVENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
«CONTRACTOR\_NAME»  
JULY 1, 2015 THROUGH JUNE 30, 2017

**I. BUSINESS ASSOCIATE CONTRACT**

**A. GENERAL PROVISIONS AND RECITALS**

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

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

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

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

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

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

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

#### B. DEFINITIONS

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

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

##### a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16. The Parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Business Associate Contract 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 laws relating to the security or privacy of PHI. Upon COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY concerning an amendment to this Business Associate Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the event:

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

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

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

#### 9 D. SECURITY RULE

10 1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish  
11 and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR  
12 § 164.308, § 164.310, and § 164.312, with respect to ePHI COUNTY discloses to CONTRACTOR or  
13 CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. CONTRACTOR  
14 shall develop and maintain a written information privacy and security program that includes  
15 Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of  
16 CONTRACTOR's operations and the nature and scope of its activities.

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

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

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

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

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

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

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

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

#### E. DATA SECURITY REQUIREMENTS

##### 1. Personal Controls

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

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

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

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

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2. Technical Security Controls

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

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

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

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

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

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

g. User IDs and Password Controls. All users must be issued a unique user name for accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight

characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three (3) of the following four (4) groups from the standard keyboard:

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

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

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

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

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

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

m. Transmission encryption. All data transmissions of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is

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1 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files  
 2 containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as  
 3 website access, file transfer, and E-Mail.

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

### 8 3. Audit Controls

9 a. System Security Review. CONTRACTOR must ensure audit control mechanisms that  
 10 record and examine system activity are in place. All systems processing and/or storing PHI COUNTY  
 11 discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of  
 12 COUNTY must have at least an annual system risk assessment/security review which provides  
 13 assurance that administrative, physical, and technical controls are functioning effectively and providing  
 14 adequate levels of protection. Reviews should include vulnerability scanning tools.

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

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

### 22 4. Business Continuity/Disaster Recovery Control

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

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

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5. Paper Document Controls

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

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

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

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

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

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

F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

25 4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in  
26 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the  
27 COUNTY.

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

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

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

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

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

#### G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

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

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

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

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

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

#### H. PROHIBITED USES AND DISCLOSURES

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

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

#### I. OBLIGATIONS OF COUNTY

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

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

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

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

#### J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

b. CONTRACTOR shall retain no copies of the PHI.

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

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

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EXHIBIT D  
TO AGREEMENT FOR PROVISION OF  
MENTAL HEALTH COMMUNITY EDUCATIONAL EVENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
«CONTRACTOR\_NAME»  
JULY 1, 2015 THROUGH JUNE 30, 2017

**I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT**

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

**A. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

#### B. TERMS OF AGREEMENT

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

2. Responsibilities of CONTRACTOR - CONTRACTOR agrees:

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

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

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

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

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

3) If the data obtained by CONTRACTOR from COUNTY includes PII, CONTRACTOR shall also comply with the substantive privacy and security requirements in the CMPPA Agreement between the SSA and the CHHS and in the Agreement between the SSA and DHCS, known as the IEA. The specific sections of the IEA with substantive privacy and security



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

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

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

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

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

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

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

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AGREEMENT FOR PROVISION OF  
MENTAL HEALTH COMMUNITY ~~BASED STIGMA REDUCTION ART~~ EDUCATIONAL EVENT  
 SERVICES  
 BETWEEN  
 COUNTY OF ORANGE  
 AND  
 «CONTRACTOR\_NAME»  
~~MARCH 21, 2012~~ JULY 1, 2015 THROUGH JUNE 30, ~~2015~~ 2017

THIS AGREEMENT entered into this «Date» day of «Month» «Year», which date is enumerated for purposes of reference only, is by and between the COUNTY OF ORANGE (COUNTY) and «CONTRACTOR\_NAME», a «Type\_of\_Legal\_Entity» (CONTRACTOR). This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

**W I T N E S S E T H:**

WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Mental Health Community ~~Based Stigma Reduction Art~~ Educational Event Services described herein to the residents of Orange County; and

WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and conditions hereinafter set forth:

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

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**REFERENCED CONTRACT PROVISIONS**

**Term:** ~~March 21, 2012~~ July 1, 2015 through June 30, ~~2015~~ 2017

**Aggregate Maximum Obligation:** \$~~475,000~~ 428,666

**Basis for Reimbursement:** Negotiated Amount

**Payment Method:** ~~Negotiated Amount~~ Installments Based Upon Benchmark Achievement

~~**Master Agreement Term:** March 21, 2012 through June 30, 2015~~

**Contractor Term:**

~~«Event\_1\_NameType»~~ «Event\_1\_NameType» «Event\_Term\_1»

~~«Event\_2\_NameType»~~ «Event\_2\_NameType» «Event\_Term\_2»

~~«Event\_3\_NameType»~~ «Event\_3\_NameType» «Event\_Term\_3»

~~«Event\_4\_NameType»~~ «Event\_4\_NameType» «Event\_Term\_4»

«Event\_5\_NameType» «Event\_Term\_5»

«Event\_6\_NameType» «Event\_Term\_6»

**CONTRACTOR DUNS Number:** «DUNS\_No»

**CONTRACTOR TAX ID Number:** «Tax\_ID\_No»

**Notices to COUNTY and CONTRACTOR:**

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

**CONTRACTOR:** «Contractor\_NameName1»  
«Contractor\_Address»  
«Contractor\_Address\_2»  
«Contractor\_City», «Contractor\_State» «Contractor\_Zip»

**CONTRACTOR's Insurance Coverages:**

1	<u>Coverage</u>	<u>Minimum Limits</u>
2	<del>Commercial General Liability</del>	<del>\$1,000,000 per occurrence</del>
3		<del>\$2,000,000 aggregate</del>
4	<del>Automobile Liability, including coverage</del>	<del>\$1,000,000 per occurrence</del>
5	<del>for owned, non-owned and hired vehicles</del>	
6		
7	<del>Workers' Compensation</del>	<del>Statutory</del>
8	<del>Employer's Liability Insurance</del>	<del>\$1,000,000 per occurrence</del>
9	Attention: «Contractor Contact Person», «Contact Person Title»	
10	«Contact Person Email»	
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## I. ACRONYMS

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

A.	AES	Advanced Encryption Standard
B.	ARRA	American Recovery and Reinvestment Act
<del>B.</del>	<del>ASRS</del>	<del>Alcohol and Drug Programs Reporting System</del>
C.	BCP	Business Continuity Plan
D.	CCC	California Civil Code
<del>D.</del>	CCR	California Code of Regulations
<del>E.</del>	F.	CD/DVD Compact Disc/Digital Video or Versatile Disc
G.	CEO	County Executive Office
H.	CFR	Code of Federal Regulations
<del>F.</del>	I.	CHHS California Health and Human Services Agency
J.	CHPP	COUNTY HIPAA Policies and Procedures
<del>G.</del>	<del>CHS</del>	<del>Correctional Health Services</del>
<del>H.</del>	<del>D/MC</del>	<del>Drug/Medi-Cal</del>
<del>I.</del>	<del>DMH</del>	<del>K. CIPA California Information Practices Act</del>
L.	CMPPA	Computer Matching and Privacy Protection Act
M.	COI	Certificate of Insurance
N.	DHCS	Department of <del>Mental</del> Health <u>Care Services</u>
<del>J.</del>	<del>DPFS</del>	<del>Drug Program Fiscal Systems</del>
<del>K.</del>	O.	DoD Department of Defense
P.	DRP	Disaster Recovery Plan
Q.	DRS	Designated Record Set
<del>L.</del>	R.	E-Mail Electronic Mail
S.	ePHI	Electronic Protected Health Information
T.	FIPS	Federal Information Processing Standards
U.	FTE	Full Time Equivalent
V.	GAAP	General Accepted Accounting Principles
W.	HCA	<del>Health Care Agency</del>
<del>M.</del>	<del>HHS</del>	<del>Health and Human Services</del> <u>Care Agency</u>
<del>N.</del>	X.	HHS Health and Human Services
Y.	HIPAA	Health Insurance Portability and Accountability Act <u>of 1996.</u>
<del>O.</del>		<u>Public Law 104-191</u>
Z.	HSC	California Health and Safety Code
<del>P.</del>	<del>LGBTQI</del>	<del>Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex</del>
<del>Q.</del>	<del>MHP</del>	<del>Mental Health Plan</del>

1	<del>R.</del>	AA.ICC	Intensive Care Coordination
2		AB. ID	Identification
3		AC. IEA	Information Exchange Agreement
4		AD. ISO	Insurance Services Office
5		AE. MHSA	Mental Health Services Act
6		<del>S. NPP</del>	<del>Notice of Privacy Practices</del>
7		<del>T. OCJS</del>	<del>Orange County Jail System</del>
8		<del>U. OCPD</del>	<del>Orange County Probation Department</del>
9		<del>V. OCR</del>	<del>Office for Civil Rights</del>
10		<del>W. OCSD</del>	<del>Orange County Sheriff's Department</del>
11	<del>X.</del>	AF. OIG	Office of Inspector General
12	<del>Y.</del>	AG. OMB	Office of Management and Budget
13	<del>Z.</del>	AH. OPM	Federal Office of Personnel Management
14		<del>AA. PADSS</del>	<del>Payment Application Data Security Standard</del>
15		<del>AB. AL. PC</del>	<del>State of California Penal Code</del>
16		<del>AC. PCI DSS</del>	<del>Payment Card Industry Data Security Standard</del>
17		<del>AD. AJ. PEI</del>	<del>Prevention and Early Intervention</del>
18		<del>AE. AK. PCP</del>	<del>Primary Care Provider</del>
19		AL. PHI	Protected Health Information
20	<del>AF.</del>	AM. PI	Personal Information
21		AN. PII	Personally Identifiable Information
22		<del>AG. AO. P&amp;P</del>	<del>Policy and Procedure</del>
23		AP. PRA	Public Record Act
24		<del>AH. AQ. SIR</del>	<del>Self-Insured Retention</del>
25		AR. SRT	Suicide Response Team
26		AS. TAY	Transitional Age Youth
27		AT. The HITECH Act	The Health Information Technology for Economic and Clinical Health Act,
28			Public Law 111-005
29		AU. USC	United States Code
30	<del>AI.</del>	AV. WIC	State of California Welfare and Institutions Code

## II. ALTERATION OF TERMS

A. This Agreement, together with Exhibits A, B, C, and ~~B, D~~ attached hereto and incorporated herein ~~by reference~~, fully ~~expresses all~~ express the complete understanding of COUNTY and CONTRACTOR with respect to the subject matter of this Agreement, ~~and shall constitute the total Agreement between the parties for these purposes.~~

B. Unless otherwise expressly stated in this Agreement, no addition to, or alteration of, the terms



of this Agreement or any Exhibits, whether written or verbal, made by the parties, their officers, employees or agents shall be valid unless made in ~~writing and~~ the form of a written amendment to this Agreement, which has been formally approved and executed by both parties.

### III. ASSIGNMENT OF DEBTS

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

### IV. COMPLIANCE

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

1. ADMINISTRATOR shall ~~ensure that~~ provide CONTRACTOR ~~is made aware~~ with a copy of the relevant HCA policies and procedures relating to HCA's Compliance Program, HCA's Code of Conduct and General Compliance Trainings.

2. CONTRACTOR has the option to adhere to HCA's Compliance Program and Code of Conduct or establish its own, provided CONTRACTOR's Compliance Program and Code of Conduct have been verified to include all required elements by ADMINISTRATOR's Compliance ~~Program~~ Officer as described in subparagraphs below.

~~2~~ 3. If CONTRACTOR elects to adhere to HCA's Compliance Program and Code of Conduct; the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of award of this Agreement a signed acknowledgement that CONTRACTOR shall comply with HCA's Compliance Program and Code of Conduct.

4. If CONTRACTOR elects to have its own Compliance Program and Code of Conduct then it shall submit a copy of its Compliance Program, Code of Conduct and relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement. ADMINISTRATOR's Compliance Officer shall determine if CONTRACTOR's Compliance Program and Code of Conduct contains all required elements. CONTRACTOR shall take necessary action to meet said standards or shall be asked to acknowledge and agree to HCA's Compliance Program and Code of Conduct if the CONTRACTOR's Compliance Program and Code of Conduct does not contain all required elements.

5. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the CONTRACTOR's Compliance Program and Code of Conduct contains all required elements,

CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR's Compliance Program, Code of Conduct and related policies and procedures.

6. Failure of CONTRACTOR to submit its Compliance Program, Code of Conduct and relevant policies and procedures shall constitute a material breach of this Agreement. Failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.

B. SANCTION SCREENING – CONTRACTOR shall adhere to all screening policies and procedures and screen all Covered Individuals employed or retained to provide services related to this Agreement to ensure that they are not designated as Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against the General Services Administration's Excluded Parties List System or System for Award Management, the Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the California Medi-Cal Suspended and Ineligible Provider List and/or any other list or system as identified by the ADMINISTRATOR.

1. Covered Individuals includes all contractors, subcontractors, agents, and other persons who provide health care items or services or who perform billing or coding functions on behalf of ~~HCA~~ ADMINISTRATOR. Notwithstanding the above, this term does not include part-time or per diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than one hundred sixty (160) hours per year; except that any such individuals shall become Covered Individuals at the point when they work more than one hundred sixty (160) hours during the calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures.

~~3. CONTRACTOR has the option to adhere to ADMINISTRATOR's Compliance Program or establish its own, provided CONTRACTOR's Compliance Program has been verified to include all required elements by ADMINISTRATOR's Compliance Officer as described in subparagraphs A.4., A.5., A.6., and A.7. below.~~

~~4. If CONTRACTOR elects to have its own Compliance Program then it shall submit a copy of its Compliance Program and relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement.~~

~~5. ADMINISTRATOR's Compliance Officer shall determine if CONTRACTOR's Compliance Program contains all required elements. CONTRACTOR shall take necessary action to meet said standards or shall be asked to acknowledge and agree to the ADMINISTRATOR's Compliance Program if the ADMINISTRATOR's Compliance Program does not contain all required elements.~~

~~6. Upon written confirmation from ADMINISTRATOR's Compliance Officer that the CONTRACTOR's Compliance Program contains all required elements, CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR's~~

~~Compliance Program and related policies and procedures:~~

~~7. Failure of CONTRACTOR to submit its Compliance Program and relevant policies and procedures shall constitute a material breach of this Agreement. Failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.~~

~~B. SANCTION SCREENING—CONTRACTOR shall screen all Covered Individuals employed or retained to provide services related to this Agreement to ensure that they are not designated as Ineligible Persons, as defined hereunder. Screening shall be conducted against the General Services Administration's List of Parties Excluded from Federal Programs, the Health and Human Services/OIG List of Excluded Individuals/Entities, and Medi-CAL Suspended and Ineligible List.~~

~~1.~~ 2. An Ineligible Person shall be any individual or entity who:

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

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

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

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

~~4~~ 5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any debarment, exclusion or other event that makes the Covered Individual an Ineligible Person. CONTRACTOR shall notify ADMINISTRATOR immediately ~~upon such disclosure~~ if a Covered Individual providing services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an Ineligible Person.

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

~~6~~ //

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

~~7. CONTRACTOR shall promptly return any overpayments within in forty-five (45) days after the overpayment is verified by the ADMINISTRATOR.~~

C. COMPLIANCE TRAINING – ADMINISTRATOR shall make General Compliance Training and Provider Compliance Training, where appropriate, available to Covered Individuals.

1. CONTRACTOR shall use its best efforts to encourage completion by Covered Individuals; provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated representative to complete all Compliance Trainings when offered.

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

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

4. Each Covered Individual attending training shall certify, in writing, attendance at compliance training. CONTRACTOR shall retain the certifications. Upon written request by ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

~~D. CODE OF CONDUCT – ADMINISTRATOR has developed a Code of Conduct for adherence by ADMINISTRATOR's employees and contract providers.~~

~~1. ADMINISTRATOR shall ensure that CONTRACTOR is made aware of ADMINISTRATOR's Code of Conduct.~~

~~2. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of ADMINISTRATOR's Code of Conduct.~~

~~3. CONTRACTOR has the option to adhere to ADMINISTRATOR's Code of Conduct or establish its own provided CONTRACTOR's Code of Conduct has been approved by ADMINISTRATOR's Compliance Officer as described in subparagraphs D.4., D.5., D.6., D.7., and D.8. below.~~

~~4. If CONTRACTOR elects to have its own Code of Conduct, then it shall submit a copy of its Code of Conduct to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement.~~

~~5. ADMINISTRATOR's Compliance Officer shall determine if CONTRACTOR's Code of Conduct is accepted. CONTRACTOR shall take necessary action to meet said standards or shall be asked to acknowledge and agree to the ADMINISTRATOR's Code of Conduct.~~

~~6. Upon approval of CONTRACTOR's Code of Conduct by ADMINISTRATOR, CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of~~

~~CONTRACTOR's Code of Conduct.~~

~~7. If CONTRACTOR elects to adhere to ADMINISTRATOR's Code of Conduct then CONTRACTOR shall submit to ADMINISTRATOR a signed acknowledgement and agreement that CONTRACTOR shall comply with ADMINISTRATOR's Code of Conduct.~~

~~8. Failure of CONTRACTOR to timely submit the acknowledgement of ADMINISTRATOR's Code of Conduct shall constitute a material breach of this Agreement, and failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute grounds for termination of this Agreement as to the non-complying party.~~

## **V. CONFIDENTIALITY**

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

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

## **VI. DELEGATION, ASSIGNMENT AND SUBCONTRACTS**

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

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

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

2. If CONTRACTOR is a for-profit organization, any change in the business structure, including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of



CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a change in fifty percent (50%) or more of Board of Directors or any governing body of CONTRACTOR at one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or delegation in derogation of this subparagraph shall be void.

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

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

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

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

1. After approval of a subcontract, ADMINISTRATOR may revoke the approval of a subcontract upon five (5) calendar ~~days~~ <sup>days</sup> written notice to CONTRACTOR if the subcontract subsequently fails to meet the requirements of this Agreement or any provisions that ADMINISTRATOR has required.

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

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

~~B. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the prior written consent of COUNTY. For CONTRACTORS which are nonprofit corporations, any change from a nonprofit corporation to any other corporate structure of CONTRACTOR, including a change in more than fifty percent (50%) of the composition of the Board of Directors within a two (2) month period of time, shall be deemed an assignment for purposes of this paragraph. Any attempted assignment or delegation in derogation of this paragraph shall be void.~~

~~C. CONTRACTOR may not assign the rights hereunder, either in whole or in part, without the prior written consent of COUNTY. For CONTRACTORS which are for-profit organizations, any~~

~~change in the business structure, including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a change in fifty percent (50%) or more of CONTRACTOR's directors at one time shall be deemed an assignment pursuant to this paragraph. Any attempted assignment or delegation in derogation of this paragraph shall be void.~~

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

## **VII. EMPLOYEE ELIGIBILITY VERIFICATION**

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

## **VIII. EQUIPMENT**

A. Unless otherwise specified in writing by ADMINISTRATOR, Equipment is defined as all property of a Relatively Permanent nature with significant value, purchased in whole or in part by ADMINISTRATOR to assist in performing the services described in this Agreement. "Relatively Permanent" is defined as having a useful life of one year or longer. Equipment which costs \$5,000 or over, including freight charges, sales taxes, and other taxes, and installation costs are defined as Capital Assets. Equipment which costs between \$600 and \$5,000, including freight charges, sales taxes and other taxes, and installation costs, or electronic equipment that costs less than \$600 but may contained PHI or PII, are defined as Controlled Equipment. Controlled Equipment includes, but is not limited to phones, tablets, audio/visual equipment, computer equipment, and lab equipment. The cost of Equipment purchased, in whole or in part, with funds paid pursuant to this Agreement shall be depreciated according to ~~generally accepted accounting principles~~ GAAP.

B. CONTRACTOR shall obtain ADMINISTRATOR's prior written approval to purchase any Equipment with funds paid pursuant to this Agreement. Upon delivery of Equipment, CONTRACTOR shall forward to ADMINISTRATOR, copies of the purchase order, receipt, and other supporting documentation, which includes delivery date, unit price, tax, shipping and serial numbers.

CONTRACTOR shall request an applicable asset tag for said Equipment and shall include each purchased asset in an Equipment inventory.

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

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

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

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

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

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

## **IX. EXPENDITURE REPORT**

A. No later than sixty (60) calendar days following completion of mental health community educational event specified in this Agreement, CONTRACTOR shall submit to ADMINISTRATOR, for informational purposes only, an Expenditure Report. Such report shall be prepared in accordance with the procedure that is provided by ADMINISTRATOR and generally accepted accounting principles.

B. CONTRACTOR may be required to submit periodic Expenditure Reports throughout the term of the Agreement.

## **X. FACILITIES, PAYMENTS AND SERVICES**

CONTRACTOR agrees to provide the services, staffing, facilities, and supplies in accordance with Exhibit A, B, C, and B, D to this Agreement. COUNTY shall compensate, and authorize, when applicable, said services. CONTRACTOR shall operate continuously throughout the term of this



Agreement with at least the minimum number and type of staff which meet applicable federal and state requirements, and which are necessary for the provision of the services hereunder.

## **XI. INDEMNIFICATION AND INSURANCE**

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

B. ~~Without limiting~~ Prior to the provision of services under this Agreement, CONTRACTOR agrees to purchase all required insurance at CONTRACTOR's ~~indemnification, it is agreed~~ expense and to submit to COUNTY the COI, including all endorsements required herein, necessary to satisfy COUNTY that ~~CONTRACTOR shall~~ the insurance provisions of this Agreement have been complied with and to maintain ~~in force at all times~~ such insurance coverage with COUNTY during the entire term of this Agreement~~a~~. In addition, all subcontractors performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance subject to the same terms and conditions as set forth herein for CONTRACTOR.

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

D. All SIRs and deductibles shall be clearly stated on the COI. If no SIRs or deductibles apply, indicate this on the COI with a zero (0) by the appropriate line of coverage. Any SIR or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the CEO/Office of Risk Management upon review of CONTRACTOR's current audited financial report.

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

## F. QUALIFIED INSURER

1. The policy, or policies, ~~of insurance covering its operations as specified in the Referenced Contract Provisions of this Agreement. If CONTRACTOR~~ of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is ~~a licensed hospital or government entity, CONTRACTOR may elect to self insure for the insurance coverage required by this Agreement. CONTRACTOR shall provide COUNTY, before commencement of services under this Agreement, a letter of self insurance verifying all the stated coverage minimums and comparable terms. In the event the CONTRACTOR becomes commercially insured, the~~ preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

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

G. The policy or policies of ~~commercial~~ insurance maintained by CONTRACTOR shall provide the minimum limits and coverage as ~~specified in this Agreement.~~ set forth below:

~~C. COUNTY warrants that it is self insured or maintains policies of insurance placed with reputable insurance companies licensed to do business in the State of California which insures the perils of bodily injury, medical, professional liability and property damage.~~

~~D. All insurance policies, except~~

Coverage	Minimum Limits
Commercial General Liability	\$1,000,000 per occurrence
	\$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation <del>and Employer's</del>	Statutory
Employers' Liability; Insurance	\$1,000,000 per occurrence
Professional Liability Insurance	\$1,000,000 per claims made
	\$1,000,000 aggregate

## H. REQUIRED COVERAGE FORMS

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

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

I. REQUIRED ENDORSEMENTS – The Commercial General Liability policy shall contain the following ~~clauses~~ endorsements, which shall accompany the COI:

~~1. "1. An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange is included as an additional insured with respect to the operations of the named insured performed under contract with,~~ its elected and appointed officials, officers, employees, and agents as Additional Insureds.

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

~~2. "It is agreed that any insurance maintained by the County of Orange shall apply in excess of, and not contribute with, insurance provided by this policy."~~

~~3. "This insurance shall not be canceled, limited or non renewed until after thirty (30) calendar days written notice has been given to Orange County HCA/Contract Development and Management, 405 West 5th Street, Suite 600, Santa Ana, CA 92701 4637."~~

~~E. Certificates of insurance and endorsements evidencing the above coverages and clauses shall be mailed to COUNTY as referenced in the Referenced Contract Provisions of this Agreement.~~

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

~~G. Unless waived by ADMINISTRATOR,~~ K. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

L. CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation may constitute a material breach of the Agreement, upon which the COUNTY may suspend or terminate this Agreement.

M. If CONTRACTOR's Professional Liability policy is a "claims made" policy, CONTRACTOR shall agree to maintain Professional Liability coverage for two (2) years following completion of Agreement.

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

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

1 protect COUNTY.

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

7 Q. The procuring of such required policy or policies of insurance ~~must be issued by an~~ shall not be  
8 construed to limit CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and  
9 requirements of this Agreement, nor act in any way to reduce the policy coverage and limits available  
10 from the insurer ~~licensed to do~~.

#### 11 R. SUBMISSION OF INSURANCE DOCUMENTS

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

13 a. Prior to the start date of this Agreement.

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

15 c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding  
16 changes to any of the insurance types as set forth in Subparagraph G. of this Agreement.

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

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

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

26 b. CONTRACTOR may be assessed a penalty of one hundred dollars (\$100) for each late  
27 COI or endorsement for each business ~~in the state of California (California Admitted Carrier)~~ day,  
28 pursuant to any and all Agreements between COUNTY and CONTRACTOR, until such time that the  
29 required COI and endorsements that meet the insurance provisions stipulated in this Agreement are  
30 submitted to ADMINISTRATOR.

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

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

36 //

37 //

## **XII. INSPECTIONS AND AUDITS**

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

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

### **C. AUDIT RESPONSE**

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

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

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

## **XIII. LICENSES AND LAWS**

A. CONTRACTOR, its officers, agents, employees, affiliates, and subcontractors shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates, accreditations, waivers, and exemptions necessary for the provision of the services hereunder and



required by the laws ~~and~~ regulations and requirements of the United States, the State of California, COUNTY, and ~~any~~all other applicable governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and in writing of its inability to obtain or maintain, irrespective of the pendency of ~~an appeal~~any hearings or appeals, permits, licenses, approvals, certificates, accreditations, waivers and exemptions. Said inability shall be cause for termination of this Agreement.

~~B. The parties shall comply with all laws, rules or regulations applicable to the services provided hereunder, as any may now exist or be hereafter amended or changed, except those provisions or application of those provisions waived by the Secretary of the Department of Health and Human Services. These laws, regulations, and requirements shall include, but not be limited to:~~

- ~~1. WIC, Divisions 5, 6 and 9.~~
- ~~2. State of HSC, §§1250 et seq.~~
- ~~3. PC, Part 4, Title 1, Chapter 2, Article 2.5 relating to Child Abuse Reporting.~~
- ~~4. CCR, Title 9, Title 17, and Title 22.~~
- ~~5. CFR, Title 42 and Title 45.~~
- ~~6. USC Title 42.~~
- ~~7. Federal Social Security Act, Title XVIII and Title XIX.~~
- ~~8. 42 USC, Chapter 126, 12101, et seq., the Americans with Disabilities Act of 1990.~~
- ~~9. 42 USC, §114 and §§1857, et seq., the Clean Air Act.~~
- ~~10. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.~~
- ~~11. 31 USC 7501.70, Federal single Audit Act of 1984.~~
- ~~12. Policies and procedures set forth in MHP Letters.~~
- ~~13. Policies and procedures set forth in DMH Letters.~~
- ~~14. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.~~
- ~~15. OMB Circulars A-87, A-89, A-110, A122.~~

~~C.~~ B. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

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

- a. In the case of an individual contractor, his/her name, date of birth, social security number, and residence address;
- b. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, social security number, and residence address of each individual who owns an interest of ten percent (10%) or more in the contracting entity;
- c. A certification that CONTRACTOR has fully complied with all applicable federal and state reporting requirements regarding its employees;
- d. A certification that CONTRACTOR has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply.

2. Failure of CONTRACTOR to timely submit the data and/or certifications required by

Subparagraphs 1.a., 1.b., 1.c., or 1.d. above, or to comply with all federal and state employee reporting requirements for child support enforcement, or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement; and failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute grounds for termination of this Agreement.

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

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

1. ARRA of 2009.
2. WIC, Division 5, Community Mental Health Services.
3. WIC, Division 6, Admissions and Judicial Commitments.
4. WIC, Division 7, Mental Institutions.
5. HSC, §§1250 et seq., Health Facilities.
6. PC, §§11164-11174.3, Child Abuse and Neglect Reporting Act.
7. CCR, Title 9, Rehabilitative and Developmental Services.
8. CCR, Title 17, Public Health.
9. CCR, Title 22, Social Security.
10. CFR, Title 42, Public Health.
11. CFR, Title 45, Public Welfare.
12. USC Title 42, Public Health and Welfare.
13. Federal Social Security Act, Title XVIII and Title XIX Medicare and Medicaid.
14. 42 USC §12101 et seq., Americans with Disabilities Act of 1990.
15. 42 USC §1857, et seq., Clean Air Act.
16. 33 USC 84, §308 and §§1251 et seq., the Federal Water Pollution Control Act.
17. 31 USC 7501.70, Federal Single Audit Act of 1984.
18. P&Ps set forth in MHSA.
19. P&Ps set forth in DHCS Letters.
20. HIPAA privacy rule, as it may exist now, or be hereafter amended, and if applicable.
21. 31 USC 7501 – 7507, as well as its implementing regulations under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

#### **XIV. LITERATURE AND ADVERTISEMENTS, ADVERTISEMENTS, AND SOCIAL MEDIA**

A. Any written information or literature, including educational or promotional materials, distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related to this Agreement must be approved at least thirty (30) days in advance and in writing by ADMINISTRATOR ~~the other party~~ before distribution. For the purposes of this Agreement, distribution of written materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads, and electronic media such as the Internet. ~~Such information shall not imply endorsement by COUNTY, unless ADMINISTRATOR consents thereto in writing.~~

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

C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly available social media sites) in support of the services described within this Agreement, CONTRACTOR shall develop social media policies and procedures and have them available to ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media used to either directly or indirectly support the services described within this Agreement. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social media developed in support of the services described within this Agreement. CONTRACTOR shall also include any required funding statement information on social media when required by ADMINISTRATOR.

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

## **XV. MAXIMUM OBLIGATION**

The Aggregate Maximum Obligation of COUNTY for services provided in accordance with all agreements for Mental Health Community ~~Based Stigma Reduction Art~~ Educational Event Services is as specified in the Referenced Contract Provisions of this Agreement. This specific Agreement with CONTRACTOR is only one of several agreements to which this Aggregate Maximum Obligation applies. It therefore is understood by the parties that reimbursement to CONTRACTOR will be only a fraction of this Aggregate Maximum Obligation.

## **XVI. NONDISCRIMINATION**

### **A. EMPLOYMENT**

1. During the performance term of this Agreement, CONTRACTOR and its Covered Individuals shall not unlawfully discriminate against any employee or applicant for employment because of his/her ~~ethnic group identification, race, religion, ancestry, religious creed, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition, or ancestry~~, physical ~~or disability~~, mental disability, medical condition, genetic information, marital status, sex, gender,



gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally, during the term of this Agreement, CONTRACTOR and its Covered Individuals shall ~~warrant~~ require in its subcontracts that ~~the evaluation and treatment of~~ subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

2. CONTRACTOR and its Covered Individuals shall not discriminate against employees ~~and/or~~ applicants for employment ~~are free from discrimination~~ in the areas of employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. ~~There shall be posted~~

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

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

~~25~~ 25. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR ~~and/or subcontractor~~ shall state that all qualified applicants will receive consideration for employment without regard to ~~ethnic group identification, race, religion, ancestry, religious creed, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition, or ancestry,~~ physical ~~or~~ disability, mental disability, ~~medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.~~ Such ~~requirement~~ requirements shall be deemed fulfilled by use of the ~~phrase "an equal opportunity employer."~~ term EOE.

~~36~~ 36. Each labor union or representative of workers with which CONTRACTOR ~~and/or subcontractor~~ has a collective bargaining agreement or other contract or understanding must post a notice advising the labor union or workers' representative of the commitments under this Nondiscrimination Paragraph and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

B. SERVICES, BENEFITS, AND FACILITIES – CONTRACTOR ~~and/or subcontractor~~ shall not discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of ~~ethnic group identification, race, religion, ancestry, religious creed, color, creed, sex, marital status, national origin, age (40 and over), sexual orientation, medical condition, or ancestry,~~ physical ~~or~~ disability, mental disability, ~~medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status~~ in accordance with Title IX of the Education Amendments of 1972; ~~as they relate to 20 USC §1681 -~~

§1688; Title VI of the Civil Rights Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); ~~and~~ Title 9, Division 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all may now exist or be hereafter amended or changed.

~~1.~~ For the purpose of this ~~subparagraph B.~~ Nondiscrimination paragraph, Discrimination includes, but is not limited to the following based on one or more of the factors identified above:

~~a1.~~ Denying a client participant or potential client participant any service, benefit, or accommodation.

~~b2.~~ Providing any service or benefit to a client participant which is different or is provided in a different manner or at a different time from that provided to other clients participants.

~~c3.~~ Restricting a client participant in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit.

~~d4.~~ Treating a client participant differently from others in satisfying any admission requirement or condition, or eligibility requirement or condition, which individuals must meet in order to be provided any service or benefit.

~~e5.~~ Assignment of times or places for the provision of services.

~~2C.~~ COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all clients participants through a written statement that CONTRACTOR's clients and/or subcontractor's participants may file all complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and ADMINISTRATOR; or ~~the~~ COUNTY's Patient's Patient Rights Office. ~~CONTRACTOR's statement shall advise clients of the following:~~

~~a1.~~ Whenever possible, problems shall be resolved informally and at the point of service. CONTRACTOR shall establish an internal informal problem resolution process for clients participants not able to resolve such problems at the point of service. Clients Participants may initiate a grievance or complaint directly with CONTRACTOR either orally or in writing.

~~1)a.~~ COUNTY shall establish a formal resolution and grievance process in the event informal processes do not yield a resolution.

~~2)b.~~ Throughout the problem resolution and grievance process, client participant rights shall be maintained, including access to the Patients' Rights Office at any point in the process. Clients Participants shall be informed of their right to access the Patients' Rights Office at any time.

~~b. In those cases where the client's complaint is filed initially with the Patients' Rights Office, the Patients' Rights Office may proceed to investigate the client's complaint.~~

~~c~~ 2. Within the time limits procedurally imposed, the complainant shall be notified in writing as to the findings regarding the alleged complaint and, if not satisfied with the decision, may file an appeal ~~with the Patients' Rights Office.~~

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

~~D~~ //

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

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

## **XVII. NOTICES**

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

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

2. When faxed, transmission confirmed;

3. When sent by Email; or

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

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

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

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

ADMINISTRATOR.

~~— E. In the event of a death, notification shall be made in accordance with the Notification of Death paragraph of this Agreement.~~

## **XVIII. NOTIFICATION OF DEATH**

### ~~— A. NON TERMINAL ILLNESS DEATH~~

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

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

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

2. ~~In addition;~~ WRITTEN NOTIFICATION

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

~~3. The telephone report and written Notification of Non Terminal Illness Death shall contain the name of the deceased, the date and time of death, the nature and circumstances of the death, and the name(s) of CONTRACTOR's officers or employees with knowledge of the incident.~~

b. TERMINAL ILLNESS DEATH

~~1. CONTRACTOR shall notify ADMINISTRATOR by written report faxed, hand delivered, faxed, sent via encrypted email, and/or postmarked and sent via U.S. Mail within forty-eight (48) hours of becoming aware of the death due to terminal illness of any person served hereunder. The Notification of Terminal Illness Death shall contain the name of the deceased, the date and time of death, the nature and circumstances of the death, and the name(s) of CONTRACTOR's officers or employees with knowledge of the incident~~ pursuant to this Agreement.

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

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## **XIX. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

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

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

## **XX. RECORDS MANAGEMENT AND MAINTENANCE**

A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term of this Agreement, prepare, maintain and manage records appropriate to the services provided and in accordance with this Agreement and all applicable requirements, ~~which include, but are not limited to:~~

~~1. California Code of Regulation Title 22, §§70751(e), 71551(e), 73543(a), 74731(a), 75055(a), 75343(a), and 77143(a).~~

~~2. State of California, Health and Safety Code §123145.~~

~~3. Title 45 CFR, §164.501; §164.524; §164.526; §164.530(e) and (j).~~

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

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

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

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

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

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

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

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**XXI. RESEARCH AND PUBLICATION**

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

**XXII. MINIMUM WAGE LAWS**

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

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

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

**XXIII. SEVERABILITY**

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

**XXIV. SPECIAL PROVISIONS**

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

1. Making cash payments to intended recipients of services through this Agreement.
2. Lobbying any governmental agency or official ~~or making political contributions.~~

CONTRACTOR shall file all certifications and reports in compliance with this requirement pursuant to Title 31, USC, §1352 (e.g., limitation on use of appropriated funds to influence certain federal contracting and financial transactions).

3. ~~Supplanting current funding for existing services.~~

~~4.~~ Fundraising.

~~54.~~ Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's staff, volunteers, or members of the Board of Directors or governing body.

~~65.~~ Reimbursement of CONTRACTOR's members of the Board of Directors or governing body for expenses or services.

~~7~~ ~~6.~~ Making personal loans to CONTRACTOR's staff, volunteers, interns, consultants, subcontractors, and members of the Board of Directors or governing body, or its designee or authorized agent, or making salary advances or giving bonuses to CONTRACTOR's staff.

~~87.~~ Paying an individual salary or compensation for services at a rate in excess of the current Level I of the Executive Salary Schedule as published by the OPM. The OPM Executive Salary Schedule may be found at ~~www.opm.gov.~~ www.opm.gov.

~~98.~~ Severance pay for separating employees.

~~109.~~ Paying rent and/or lease costs for a facility prior to the facility meeting all required building codes and obtaining all necessary building permits for any associated construction.

#### 10. Supplanting current funding for existing services.

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

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

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

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

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

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

~~26.~~ Providing inpatient hospital services or purchasing major medical equipment.

~~37.~~ Satisfying any expenditure of non-federal funds as a condition for the receipt of federal funds (matching).

~~48.~~ Purchase of gifts, meals, entertainment, awards, or other personal expenses for CONTRACTOR's ~~clients~~ participants.

~~5. Funding travel or training (excluding mileage or parking).~~

~~6. Making phone calls outside of the local area unless documented to be directly for the purpose of client care.~~

~~7. Payment for grant writing, consultants, certified public accounting, or legal services.~~

~~8. Purchase of artwork or other items that are for decorative purposes and do not directly contribute to the quality of services to be provided pursuant to this Agreement.~~

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## XXV. STATUS OF CONTRACTOR

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

## XXVI. TAX LIABILITY

CONTRACTOR shall report all income and pay all applicable federal, state, and local income taxes or similar levies as a result of any monies paid CONTRACTOR ~~under~~pursuant to this Agreement. CONTRACTOR shall indemnify, defend and hold COUNTY harmless from all liability, claims, losses, demands, including defense costs and attorney fees, whether resulting from court action or otherwise, in the event that any taxing authority or other agency attempts to obtain from COUNTY any such monies, ~~or~~ penalties, and/or interest imposed, resulting from any failure of CONTRACTOR to comply with the provisions of this paragraph.

## XXVII. TERM

A. This specific Agreement with CONTRACTOR is only one of several agreements to which the term of this ~~Master~~ Agreement applies. ~~The term of this Master~~ This specific Agreement shall commence ~~on March 1, 2012 and~~ as specified in the Reference Contract Provisions of this Agreement or the execution date, whichever is later. This specific Agreement shall terminate ~~on June 30, 2015;~~ provided, however, that the specific term for CONTRACTOR shall be as specified in the Referenced Contract Provisions of this Agreement; and provided further that the parties shall continue to be obligated to comply with the requirements and perform the duties specified, unless otherwise sooner terminated as provided in this Agreement. Such duties include, but are not limited to, obligations with respect to confidentiality, indemnification, audits, reporting, and accounting; provided, however, CONTRACTOR shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

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



**XXVIII. TERMINATION**

A. Either party may terminate this Agreement, without cause, upon ~~«Term\_wo\_Cause\_Notice»~~ «Term\_wo\_Cause\_Notice» calendar days written notice given the other party.

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

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

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

**D. CONTINGENT FUNDING**

1. Any obligation of COUNTY under this Agreement is contingent upon the following:
  - a. The continued availability of federal, state and county funds for reimbursement of COUNTY's expenditures, and
  - b. Inclusion of sufficient funding for the services hereunder in the applicable budget approved by the Board of Supervisors.

2. In the event such funding is subsequently reduced or terminated, COUNTY may suspend, terminate or renegotiate this Agreement upon thirty (30) calendar days written notice given CONTRACTOR.

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

F. In the event this Agreement is terminated by either party, after receiving a Notice of Termination CONTRACTOR shall do the following:

1. Comply with termination instructions provided by ADMINISTRATOR in a manner which is consistent with recognized standards of quality care and prudent business practice.
2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract performance during the remaining contract term.
3. If records are to be transferred to COUNTY, pack and label such records in accordance with directions provided by ADMINISTRATOR.
4. Return to COUNTY, in the manner indicated by ADMINISTRATOR, any equipment and supplies purchased with funds provided by COUNTY.

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

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

#### **XXIX. THIRD PARTY BENEFICIARY**

Neither party hereto intends that this Agreement shall create rights hereunder in third parties including, but not limited to, any subcontractors or any ~~clients~~ participants provided services ~~hereunder~~ pursuant to this Agreement.

#### **XXX. WAIVER OF DEFAULT OR BREACH**

Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any default or any breach by CONTRACTOR shall not be considered a modification of the terms of this Agreement.

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

3  
4 «CONTRACTOR\_NAME»

5  
6  
7 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

8  
9 TITLE: \_\_\_\_\_

10  
11  
12 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

13  
14 TITLE: \_\_\_\_\_

15  
16  
17  
18 COUNTY OF ORANGE

19  
20  
21 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

22 HEALTH CARE AGENCY

23  
24  
25 APPROVED AS TO FORM

26 OFFICE OF THE COUNTY COUNSEL

27 ORANGE COUNTY, CALIFORNIA

28  
29  
30 BY: \_\_\_\_\_ DATED: \_\_\_\_\_

31 DEPUTY

32  
33  
34 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the  
35 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer  
36 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution  
37 or by-laws whereby the Board of Directors has empowered said authorized individual to act on its behalf by his or her  
signature alone is required by HCA ADMINISTRATOR.

EXHIBIT A  
 TO AGREEMENT FOR PROVISION OF  
MENTAL HEALTH COMMUNITY ~~BASED STIGMA REDUCTION ART~~ EDUCATIONAL  
 EVENT SERVICES  
 BETWEEN  
 COUNTY OF ORANGE  
 AND  
 «CONTRACTOR\_NAME»  
~~MARCH 21, 2012~~ JULY 1, 2015 THROUGH JUNE 30, ~~2015~~ 2017

~~Tax ID No.:~~ «Tax\_ID\_No»

**I. ~~ART~~ MENTAL HEALTH COMMUNITY EDUCATIONAL EVENT(S) DESIGNATION**

CONTRACTOR agrees to provide mental health community ~~based stigma reduction art~~ educational event services in the specified category and/or categories pursuant to the terms and conditions specified in this Agreement for provision of such services by and between COUNTY and CONTRACTOR. CONTRACTOR and COUNTY may mutually agree, in writing, to add or delete services to be provided by CONTRACTOR.

Theatre	<del>«Theatre»</del> <u>«Theatre»</u>
Dance	<del>«Dance»</del> <u>«Dance»</u>
Skit	<del>«Skit»</del> <u>«Skit»</u>
Poetry Reading	<del>«Poetry Reading»</del> <u>«Poetry Reading»</u>
Video	<del>«Video»</del> <u>«Video»</u>
Film Series	<del>«Film Series»</del> <u>«Film Series»</u>
Art Exhibit	<del>«Art Exhibit»</del> <u>«Art Exhibit»</u>
Other	<del>«Other»</del> <u>«Other»</u>
(«Other Description»)	<del>«Other»</del> <u>«Other»</u>

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EXHIBIT B  
TO AGREEMENT FOR PROVISION OF  
MENTAL HEALTH COMMUNITY ~~BASED STIGMA REDUCTION ART~~ EDUCATIONAL  
EVENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
«CONTRACTOR\_NAME»  
~~MARCH 21, 2012~~ JULY 1, 2015 THROUGH JUNE 30, ~~2015~~ 2017

**I. COMMON TERMS AND DEFINITIONS**

A. The parties agree to the following terms and definitions, and to those terms and definitions which, for convenience, are set forth elsewhere in ~~this~~ the Agreement.

~~A.~~ 1. Activity Form means a data collection form used to track each activity in which the group and/or individual participate.

~~—B. Administrative Service Organization means a designated organization that oversees and manages the administrative functions of a program and/or service.~~

~~—C.~~ 2. Admission means completion of the entry and/or intake process for program participants.

3. Assessment means a professional review and evaluation of an individual's behavioral health needs and conditions in order to determine the most appropriate course of services.

4. At Risk means a state of high stressor and low protective factor that would increase likelihood of development of a mental illness.

~~—D.~~ 5. Behavioral Health Condition means diminished cognitive, emotional, or social abilities, but not to the extent that the criteria for a mental disorder are met.

6. Case Management means the delivery of individual guidance and support services. Case management services include; but are not limited to, referrals and linkages to needed services such as; resources, coaching, and assistance with translation and transportation.

7. Case Management Service Plan means a plan developed to address a participant's goals and objectives identified during screening and assessment. The plan should include participant developed goals, referrals and linkages to appropriate services, and progress and/or milestones achieved.

8. Community-Defined Evidence "validates practices that have a community-defined evidence base for effectiveness in achieving mental health outcomes for underserved communities. It also defines a process underway to nationally develop specific criteria by which practices' effectiveness may be documented using community-defined evidence that eventually will allow the procedure to have an equal standing with evidence-based practices currently defined in the peer reviewed literature." [National Network to Eliminate Disparities Latino Work Group] cited by California DMH, PEI

1 Resource Materials.

2 ~~E~~ 9. Consumer means an individual who is utilizing services for the treatment and/or  
3 support of a mental health condition.

4 10. Early Intervention means the act of intervening, interfering or interceding at the  
5 manifestation of a mental health illness, with the intent of measurably improving a mental health  
6 problem or to prevent a mental health problem from getting worse.

7 ~~E~~ 11. Education/Skill Building Workshop/Class means a workshop/class conducted which  
8 has a primary focus of providing information and/or teaching a skill.

9 12. Engagement means the process by which a trusting relationship between a worker and  
10 participant is established with the goal to link the participant to appropriate services.

11 G 13. Enrollment means the data entry of a participant's program information into COUNTY's  
12 Prevention and Intervention database for purposes of recording and tracking a participant's involvement  
13 in the program.

14 H 14. Evaluation means the systematic investigation of the value and impact of an intervention or  
15 program.

16 ~~I~~ 15. Evidence-based Practice means the range of services of well-documented effectiveness.  
17 An evidence-based practice has quantitative and qualitative data showing positive outcomes and has  
18 been subject to expert/peer review that has determined that a particular approach or strategy has a  
19 significant level of evidence of effectiveness.

20 J 16. Family Member means any traditional and/or non-traditional support system, significant  
21 other, or natural support designated by the participant.

22 ~~K~~ 17. Follow-up means ensuring that the participant has linked to the referred service and/or  
23 successfully transitioned from one service to another.

24 18. Group Contacts means two (2) to twelve (12) people meeting on behalf of a participant.  
25 This can include case management, education and/or support of family/loved one or similar activities.

26 L 19. Group Intervention means the delivery of services to more than one individual or family.

27 M 20. Health Education means the ~~delivery~~ practice of ~~services~~ educating and teaching individuals  
28 and groups of people about behaviors conducive to ~~a specific person or family~~ the promotion,  
29 maintenance, and restoration of good physical and behavioral health."

30 N 21. Individual Intervention means any strategies or services rendered to a participant on a  
31 person-to-person level. Examples include, but are not limited to, education, case management, short-  
32 term therapy and life coaching to address individualized goals and objectives.

33 O 22. Information Dissemination means the distribution of a collection of facts or data.

34 ~~P~~ Intake means the initial meeting between a participant and a worker to evaluate a participant's  
35 issue(s) of concern and determine how a program could best meet his/her needs.

36 23. Level of Well-being means the state of satisfaction, happiness, and/or in control that a  
37 participant feels about his/her present situation/condition as measured by a validated instrument/scale.

~~Q. Linkage to Services means the process of linking a participant to other pertinent services such as support services as self help groups, social services, residential services, rehabilitation services, vocational services, job training services, or other appropriate services.~~

~~R. Mental Health Condition means diminished cognitive, emotional, or social abilities, but not to the extent that the criteria for a mental disorder are met.~~

~~S~~ 24. Linkage means when an individual is connected to programs or services through warm hand-off or follow-up to ensure the connection is made.

25. Media Events means culturally relevant activities conducted by CONTRACTOR which are coordinated with and publicized by the media, including radio and TV appearances.

26. MHSA means the law that provides funding for expanded community mental health services, also known as "Proposition 63."

~~T~~ 27. NPP means a document that notifies individuals of uses and disclosures of PHI that may be made by or on behalf of the health plan or health care provider as set forth in the HIPAA of 1996.

~~U~~ 28. Outreach means ~~the face-to-face~~ contact with potential participants to link them to appropriate mental health and supportive services, which may include activities ~~that involve educating to educate~~ the community about ~~the~~ services offered and requirements for participation in the program.

~~V~~ 29. Participant means an individual enrolled in a program and who engages in activities aimed at preventing and/or eliminating the development of mental illness.

~~W. Participant Advocacy means the provision of education and referral services to assist participants in getting appropriate care and services.~~

~~X~~ 30. PII means any information that could be readily used to identify a specific person, including but not limited to: name, address, telephone number, email address, driver's license number, Social Security number, bank account information, credit card information, or any combination of data that could be used to identify a specific person, such as birth date, zip code, mother's maiden name and gender.

31. Participant to Volunteer Transition means that an enrolled participant completes the program and is subsequently recruited as a volunteer, returning to the program to serve in a volunteer, rather than participant capacity.

~~Y. Presentation/Speaking Engagement means structured, culturally appropriate mental health education and prevention activities directed to participants.~~

~~Z~~ 32. Prevention means ~~programs and services~~ the group or individual interventions that ~~are designed to help prevent the development~~ occur before the initial onset of ~~serious emotional or a behavioral disorders and mental illness.~~ ~~Prevent~~ health condition. Prevention promotes positive cognitive, social, and emotional development and encourages a state of well-being that allows the individuals to function well in the face of changing and sometimes challenging circumstances.

~~AA~~ 33. PEI Plan means the most recent County of Orange MHSA Prevention and Early Intervention Plan approved by the Orange County MHSA Steering Committee and Board of



Supervisors.

34. Program Protocol means the written program description, goals, objectives, and policies established by CONTRACTOR for the program provided pursuant to this Agreement.

~~AB~~ 35. Promising Practice means programs and strategies that have some quantitative data showing positive outcomes over a period of time, but do not have enough research or replication to support generalized outcomes. It has an evaluation component/plan in place to move towards demonstration of effectiveness; however, it does not yet have evaluation data available to demonstrate positive outcomes. [The Association of Maternal and Child Health Programs] cited by California DMH, PEI Resource Materials.

~~AC~~ 36. PHI means individually identifiable health information usually transmitted by electronic media maintained in any medium as defined in the regulations or for an entity, such as a health plan, transmitted or maintained in any other medium. It is created or received by a covered entity and relates to the past, present, or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual.

~~AD~~ 37. Referral means ~~the process of sending an individual from one service to another receives information or contacts for health care, mental health, and/or other support services.~~

~~AE. Request means or programs, or an act of asking for a PEI service to be rendered to a prospective participant.~~ unsuccessful linkage attempt

~~AF. Resilience means the personal qualities of optimism and hope and the personal traits of good problem solving skills that lead individuals to live, work and learn with a sense of mastery and competence.~~

~~AG. Resource Linkage means the process of researching and linking a participant with community resources to meet his/her needs.~~

~~AH~~ 38. Social Support means assistance that may include companionship, emotional backing, cognitive guidance, material aid and special services.

~~AI~~ 39. SRT means a team comprised of trained survivor volunteers who are sent to the scene of a suicide through collaboration with the local law enforcement, coroner's office, and/or crisis response team for the purposes of support and resource linkage.

40. Support Group means a meeting/group, facilitated by program staff, consisting of two (2) or more people (or a number mutually agreed upon in the contract) who have similar experiences and concerns and who meet in order to provide emotional help, advice and encouragement for one another.

41. Stigma means associating negative qualities or stereotypes with having a mental illness.

42. Mental Health Community Educational Event(s) means artistic events such as plays, art shows, videos, slide shows, film series, poetry readings, dance productions and other similar events that focus on reducing negative attitudes and behaviors towards, and the stigma associated with persons with mental illness to specifically educate, dispel myths, reduce negative thinking and behaviors, and affect positive attitudes toward mental illness in the community.



43. Training means the action or method used to transfer skills and/or knowledge to a target audience.

~~AJ~~ 44. Train-the-Trainer means the process in which an individual or group passes on the skills, knowledge, and abilities of course work to others so they may become educators, coaches, tutors, mentors, etc., to disseminate information, material, and skills to others.

45. TAY means participants sixteen (16) to twenty-five (25) years of age.

46. Trauma-Exposed Individuals means those who are exposed to traumatic events or prolonged traumatic conditions, including grief, loss and isolation, including those who are unlikely to seek help from any traditional mental health service.

~~AK~~ 47. Unduplicated Participant means an individual that is counted only once, despite how many programs the individual is enrolled in during a contractual agreement period.

~~AL~~ 48. Units of Service means the number and/or type of activities the CONTRACTOR will fulfill during a contractual agreement period.

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

## II. BUDGET

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

EVENT COSTS	«Event_1_NameType»	«Event_2_NameType»	«Event_3_NameType»	«Event_4_NameType»
«Event_Costs_Cat_1»	«Event_1_Costs_Cat_1»	«Event_2_Cost_Cat_1»	«Event_3_Cost_Cat_1»	«Event_4_Cost_Cat_1»
«Event_Costs_Cat_2»	«Event_1_Costs_Cat_2»	«Event_2_Cost_Cat_2»	«Event_3_Cost_Cat_2»	«Event_4_Cost_Cat_2»
«Event_Costs_Cat_3»	«Event_1_Costs_Cat_3»	«Event_2_Cost_Cat_3»	«Event_3_Cost_Cat_3»	«Event_4_Cost_Cat_3»
«Event_Costs_Cat_4»	«Event_1_Costs_Cat_4»	«Event_2_Cost_Cat_4»	«Event_3_Cost_Cat_4»	«Event_4_Cost_Cat_4»
«Event_Costs_Cat_5»	«Event_1_Costs_Cat_5»	«Event_2_Cost_Cat_5»	«Event_4_Cost_Cat_5»	«Event_4_Cost_Cat_5»
«Event_Costs_Cat_6»	«Event_1_Costs_Cat_6»	«Event_2_Cost_Cat_6»	«Event_3_Cost_Cat_6»	«Event_4_Cost_Cat_6»
«Event_Costs_Cat_7»	«Event_1_Costs_Cat_7»	«Event_2_Cost_Cat_7»	«Event_3_Cost_Cat_7»	«Event_4_Cost_Cat_7»
«Event_Costs_Cat_8»	«Event_1_Costs_Cat_8»	«Event_2_Cost_Cat_8»	«Event_3_Cost_Cat_8»	«Event_4_Cost_Cat_8»
«Event_Costs_Cat_9»	«Event_1_Costs_Cat_9»	«Event_2_Cost_Cat_9»	«Event_3_Cost_Cat_9»	«Event_4_Cost_Cat_8»
«Event_Costs_Cat_10»	«Event_1_Costs_Cat_10»	«Event_2_Cost_Cat_10»	«Event_3_Cost_Cat_10»	«Event_4_Cost_Cat_10»
«Event_Costs_Cat_11»	«Event_1_Costs_Cat_11»	«Event_2_Cost_Cat_11»	«Event_3_Cost_Cat_11»	«Event_4_Cost_Cat_11»
«Event_Costs_Cat_12»	«Event_1_Costs_Cat_12»	«Event_2_Cost_Cat_12»	«Event_3_Cost_Cat_12»	«Event_4_Cost_Cat_12»
«Event_Costs_Cat_13»	«Event_1_Costs_Cat_13»	«Event_2_Cost_Cat_13»	«Event_3_Cost_Cat_13»	«Event_4_Cost_Cat_13»
«Event_Costs_Cat_14»	«Event_1_Costs_Cat_14»	«Event_3_Cost_Cat_14»	«Event_3_Cost_Cat_14»	«Event_4_Cost_Cat_14»
«Event_Costs_Cat_15»	«Event_1_Costs_Cat_15»	«Event_2_Cost_Cat_15»	«Event_3_Cost_Cat_15»	«Event_4_Cost_Cat_15»

1	<del>«Event_Costs_Cat_16»</del>	<del>«Event_1_Costs_Cat_16»</del>	<del>«Event_2_Cost_Cat_16»</del>	<del>«Event_3_Cost_Cat_16»</del>	<del>«Event_4_Cost_Cat_16»</del>
2	<del>«Event_Costs_Cat_17»</del>	<del>«Event_1_Costs_Cat_17»</del>	<del>«Event_2_Cost_Cat_17»</del>	<del>«Event_3_Cost_Cat_17»</del>	<del>«Event_4_Cost_Cat_17»</del>
3	<del>«Event_Costs_Cat_18»</del>	<del>«Event_1_Costs_Cat_18»</del>	<del>«Event_2_Cost_Cat_18»</del>	<del>«Event_3_Cost_Cat_18»</del>	<del>«Event_4_Cost_Cat_18»</del>
4	<del>«Event_Costs_Cat_19»</del>	<del>«Event_1_Costs_Cat_19»</del>	<del>«Event_2_Cost_Cat_19»</del>	<del>«Event_3_Cost_Cat_19»</del>	<del>«Event_4_Cost_Cat_19»</del>
5	<del>«Event_Costs_Cat_20»</del>	<del>«Event_1_Costs_Cat_20»</del>	<del>«Event_2_Cost_Cat_20»</del>	<del>«Event_3_Cost_Cat_20»</del>	<del>«Event_4_Cost_Cat_20»</del>
6	<del>«Event_Costs_Cat_21»</del>	<del>«Event_1_Costs_Cat_21»</del>	<del>«Event_2_Cost_Cat_21»</del>	<del>«Event_3_Cost_Cat_21»</del>	<del>«Event_4_Cost_Cat_21»</del>
7	<del>«Event_Costs_Cat_22»</del>	<del>«Event_1_Costs_Cat_22»</del>	<del>«Event_2_Cost_Cat_22»</del>	<del>«Event_3_Cost_Cat_22»</del>	<del>«Event_4_Cost_Cat_22»</del>
8	<del>«Event_Costs_Cat_23»</del>	<del>«Event_1_Costs_Cat_23»</del>	<del>«Event_2_Cost_Cat_23»</del>	<del>«Event_3_Cost_Cat_23»</del>	<del>«Event_4_Cost_Cat_23»</del>
9	<del>TOTAL EVENT COSTS</del>	<del>«Event_1_Total_Cost»</del>	<del>«Event_2_Total_Cost»</del>	<del>«Event_3_Total_Cost»</del>	<del>«Event_4_Total_Cost»</del>

#### «Events Budget Table»

B. FINANCIAL RECORDS - CONTRACTOR shall prepare and maintain accurate and complete financial records of its cost and operating expenses. Such records will reflect the actual cost of the type of service for which payment is claimed. Any apportionment of or distribution of costs, including indirect costs, to or between performances/events or cost centers of CONTRACTOR shall be documented, and will be made in accordance with generally accepted principles of accounting. A record of all billings rendered and revenues received from any source, on behalf of persons and/or groups of interest pursuant to this Agreement, must be reflected in CONTRACTOR's financial records.

C. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify paragraph II. above.

### **III. PAYMENTS**

A. COUNTY shall pay CONTRACTOR per event as follows:

#### 1. Deposits

a. CONTRACTOR shall submit with invoice to ADMINISTRATOR the supporting documentation for all required deposits which includes, but is not limited to, contact information for vendor providing equipment, services, and/or venue; date of event or when services will be provided; description of equipment, services, and/or venue to which the deposit applies; deposit amount(s); and pertinent cancellation or loss of deposit information.

b. Should the performance/event not occur on the specified date(s), CONTRACTOR shall return such deposit amount(s) in full within twenty (20) calendar days to COUNTY.

c. Said deposits paid by COUNTY to CONTRACTOR shall not be used for any other purpose or expense associated with the performance/event, including but not limited to securing another location or event date at the same location; transferred for securing another location and/or event date at another location; or for a price less than, equal to, or greater than supporting documentation provided to ADMINISTRATOR.

#### 2. Installments

a. Installments I through III, and/or deposit invoices received with appropriate supporting documentation, shall be payable by COUNTY to CONTRACTOR based upon successful achievement of performance/event milestones equivalent to and proportionate with «Paymentreporting\_\_1», «Paymentreporting\_\_2», and «Paymentreporting\_\_3» of performance/event completion, as agreed upon by COUNTY and CONTRACTOR, and specified in the Scope of Work referenced in Exhibit B, subparagraph IV.B. below.

b. The combined total of Installment I, Installment II, and Installment III, and deposit invoice(s) shall not exceed «Paymentreporting\_\_3» of the total approved budget as referenced in Exhibit B, subparagraph II.A.

3. Installment IV shall be for an amount equal to the difference between the total approved event budget as referenced in Exhibit B, subparagraph II.A, less expenses paid to CONTRACTOR in aggregate including all deposits and Installments I, II, and III, and shall be submitted within thirty (30) calendar days following successful completion of each performance/event, submission of performance outcomes, and all reporting requirements as specified in this Agreement.

B. CONTRACTOR's billing shall be on a form approved or supplied by COUNTY and provide such information as is required by ADMINISTRATOR. Billings are due in accordance with the installment provisions specified in Exhibit B, III.A., and payments to CONTRACTOR should be released by COUNTY no later than twenty-one (21) calendar days after receipt of the correctly completed billing form.

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

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

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

F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify paragraph III. above.

#### **IV. REPORTS**

A. CONTRACTOR shall maintain records and make statistical reports as required by ADMINISTRATOR and the California State Department of Mental Health on forms provided by either.

B. CONTRACTOR shall submit to ADMINISTRATOR an Expenditure Report for each event. Expenditure Report will be on a form acceptable to, or provided by, ADMINISTRATOR and will report actual costs, for informational purposes only, for CONTRACTOR's event described in the Services paragraph of Exhibit B to this Agreement. The Expenditure Report(s) will be received by

ADMINISTRATOR no later than the twentieth (20th) day following the end of the event being reported. CONTRACTOR must request in writing any extensions to the due date of the Expenditure Report(s).

C. CONTRACTOR shall submit periodic programmatic reports to ADMINISTRATOR, which shall be received by ADMINISTRATOR following successful achievement of performance/event milestones equivalent to «Paymentreporting\_1», «Paymentreporting\_2», and «Paymentreporting\_3» as specified in the Scope of Work in Exhibit B, subparagraph IV., and in conjunction with submission of CONTRACTOR's invoice. ADMINISTRATOR may request programmatic reports for milestones in addition to those specified. Programmatic reports shall be in a format(s) approved by ADMINISTRATOR and shall include a description of CONTRACTOR's progress in implementing the provisions of this Agreement, details of outreach activities and their results, any pertinent facts or interim findings, staff changes, changes in population served, and reasons for any such changes. CONTRACTOR shall be prepared to present and discuss their programmatic reports at their scheduled meetings with ADMINISTRATOR and shall state whether or not it is progressing satisfactorily in achieving all the terms of this Agreement, and if not, shall specify what steps are being taken to achieve satisfactory progress.

D. COUNTY shall develop with CONTRACTOR performance outcome measure guidelines for the purpose of evaluating the impact and/or contribution of CONTRACTOR's services on the well-being of Orange County residents being served under the terms of this Agreement.

E. ADDITIONAL REPORTS – Upon ADMINISTRATOR's request, CONTRACTOR shall make such additional reports as required by ADMINISTRATOR concerning CONTRACTOR's activities as they affect the services hereunder. ADMINISTRATOR shall be specific as to the nature of information requested and allow up to «Addtl Rpts» calendar days for CONTRACTOR to respond.

F. CONTRACTOR shall advise ADMINISTRATOR of any special incidents, conditions, or issues that adversely affect the quality or accessibility of services provided by, or under contract with, the COUNTY as identified in the Health Care Agency's policy and procedures.

G. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify paragraph V. above.

## **V. SERVICES**

### **A. CRITERIA**

1. CONTRACTOR shall provide sufficient information regarding the proposed performance/event to allow adequate review by ADMINISTRATOR.

2. The CONTRACTOR's performance/event shall be in English and/or in other languages which may include but are not limited to Spanish, Vietnamese, Korean, Farsi, American Sign Language or others appropriate for the proposed audience, as approved by ADMINISTRATOR.

3. The intended audience shall be located within Orange County.

4. The performance/event shall be delivered to one or more of the groups of interest, including

but not limited to: youth, adults, older adults, LGBTQI, Veterans, deaf and hard of hearing, monolingual non-English speakers or some other sufficiently justified group.

5. The venue/location for the performance/event shall be located within Orange County.

6. The venue/location for the performance/event shall be appropriate for the intended audience.

7. The number of persons planned to be reached shall be at or above «Minimum\_Attendees».

8. At least one fourth of the performers/artists for the performance/event shall be mental health consumers and/or family members of mental health consumers.

9. The sponsoring group and/or person shall have had prior experience in coordinating and/or producing the proposed type of performance/event.

10. The performance/event(s), and subsequent costs associated with said performance/event, shall not be outside contract period as specified in the Referenced Contract Provisions of this Agreement.

~~12~~11. The message of the performance/event(s) about mental health shall be positive and designed to educate; dispel myths; reduce stigma, negative thinking, and behaviors; and affect positive attitudes toward mental illness in the community.

~~13~~12. The performance/event(s) shall be appropriate for all ages (i.e. family-friendly and/or family oriented).

~~14~~13. The performance/event shall be a quality artistic production as indicated by prior reviews, multiple requests for this specific production, expert opinion, and/or by some other appropriate evidence. If the performance/event has not been produced before, information about past productions by the same group or individual shall serve as indicators of the potential quality of the performance/event.

~~15~~14. Individual support shall be made available immediately following each performance/event for referral and/or linkage to various COUNTY and community-based behavioral health service programs.

~~16~~15. Behavioral health service resources shall be made available to persons in attendance and COUNTY's website: <http://www.ochealthinfo.com/behavioral> may be accessed for information.

#### B. SCOPE OF WORK

~~«Scope\_of\_Work»~~

«Scope of Work»

C. CONTRACTOR shall attend meetings with ADMINISTRATOR, as requested and scheduled by ADMINISTRATOR on an as-needed basis, to discuss contractual and other issues related to, but not limited to compliance with policies and procedures, statistics, and reporting.

D. CONTRACTOR shall make its best effort to provide services pursuant to this Agreement in a manner that is culturally and linguistically appropriate for the population(s) served. CONTRACTOR shall maintain documentation of such efforts which may include, but not be limited to: records of participation in COUNTY-sponsored or other applicable training; recruitment and hiring policies and

procedures; copies of literature in multiple languages and formats, as appropriate; and descriptions of measures taken to enhance accessibility for, and sensitivity to, individuals who are physically challenged.

E. CONTRACTOR may recruit, hire, train, and maintain staff that are persons in recovery, and/or family members of persons in recovery.

F. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify paragraph IV. above.

## **V. REPORTS**

~~A. CONTRACTOR shall maintain records and make statistical reports as required by ADMINISTRATOR and the California State Department of Mental Health on forms provided by either.~~

~~B. CONTRACTOR shall submit to ADMINISTRATOR an Expenditure Report for each event. Expenditure Report will be on a form acceptable to, or provided by, ADMINISTRATOR and will report actual costs, for informational purposes only, for CONTRACTOR's event described in the Services paragraph of Exhibit B to this Agreement. The Expenditure Report(s) will be received by ADMINISTRATOR no later than the twentieth (20th) day following the end of the event being reported. CONTRACTOR must request in writing any extensions to the due date of the Expenditure Report(s).~~

~~C. CONTRACTOR shall submit periodic programmatic reports to ADMINISTRATOR, which shall be received by ADMINISTRATOR following successful achievement of performance/event milestones equivalent to «Paymentreporting\_1», «Paymentreporting\_2», and «Paymentreporting\_3» as specified in the Scope of Work in Exhibit B, subparagraph IV., and in conjunction with submission of CONTRACTOR's invoice. ADMINISTRATOR may request programmatic reports for milestones in addition to those specified. Programmatic reports shall be in a format(s) approved by ADMINISTRATOR and shall include a description of CONTRACTOR's progress in implementing the provisions of this Agreement, details of outreach activities and their results, any pertinent facts or interim findings, staff changes, changes in population served, and reasons for any such changes. CONTRACTOR shall be prepared to present and discuss their programmatic reports at their scheduled meetings with ADMINISTRATOR and shall state whether or not it is progressing satisfactorily in achieving all the terms of this Agreement, and if not, shall specify what steps are being taken to achieve satisfactory progress.~~

~~D. COUNTY shall develop with CONTRACTOR performance outcome measure guidelines for the purpose of evaluating the impact and/or contribution of CONTRACTOR's services on the well-being of Orange County residents being served under the terms of this Agreement.~~

~~E. ADDITIONAL REPORTS Upon ADMINISTRATOR's request, CONTRACTOR shall make such additional reports as required by ADMINISTRATOR concerning CONTRACTOR's activities as they affect the services hereunder. ADMINISTRATOR shall be specific as to the nature of information requested and allow up to «Addtl\_Rpts» calendar days for CONTRACTOR to respond.~~

1 ~~F. CONTRACTOR shall advise ADMINISTRATOR of any special incidents, conditions, or issues~~  
2 ~~that adversely affect the quality or accessibility of services provided by, or under contract with, the~~  
3 ~~COUNTY as identified in the Health Care Agency's policy and procedures.~~

4 ~~G. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify paragraph~~  
5 ~~V. above.~~

EXHIBIT C  
TO AGREEMENT FOR PROVISION OF  
MENTAL HEALTH COMMUNITY EDUCATIONAL EVENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
«CONTRACTOR\_NAME»  
JULY 1, 2015 THROUGH JUNE 30, 2017

**I. BUSINESS ASSOCIATE CONTRACT**

**A. GENERAL PROVISIONS AND RECITALS**

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

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

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

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

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

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

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

#### B. DEFINITIONS

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

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

##### a. Breach excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16. The Parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Business Associate Contract 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 laws relating to the security or privacy of PHI. Upon COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY concerning an amendment to this Business Associate Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. COUNTY may terminate the Agreement upon thirty (30) days written notice in the event:

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

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

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

#### D. SECURITY RULE

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

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

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

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

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

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

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

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

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

#### E. DATA SECURITY REQUIREMENTS

##### 1. Personal Controls

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

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

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

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

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## 2. Technical Security Controls

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

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

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

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

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

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

g. User IDs and Password Controls. All users must be issued a unique user name for accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight

characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three (3) of the following four (4) groups from the standard keyboard:

1) Upper case letters (A-Z)

2) Lower case letters (a-z)

3) Arabic numerals (0-9)

4) Non-alphanumeric characters (punctuation symbols)

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

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

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

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

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

m. Transmission encryption. All data transmissions of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is

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128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as website access, file transfer, and E-Mail.

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

### 3. Audit Controls

a. System Security Review. CONTRACTOR must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.

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

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

### 4. Business Continuity/Disaster Recovery Control

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

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

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5. Paper Document Controls

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

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

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

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

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

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

F. BREACH DISCOVERY AND NOTIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

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

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

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

1) The Disclosure is required by law; or

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

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

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

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

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

#### H. PROHIBITED USES AND DISCLOSURES

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

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

#### I. OBLIGATIONS OF COUNTY

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

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

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

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

#### J. BUSINESS ASSOCIATE TERMINATION

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

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

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

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

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

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

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

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

EXHIBIT D  
TO AGREEMENT FOR PROVISION OF  
MENTAL HEALTH COMMUNITY EDUCATIONAL EVENT SERVICES  
BETWEEN  
COUNTY OF ORANGE  
AND  
«CONTRACTOR\_NAME»  
JULY 1, 2015 THROUGH JUNE 30, 2017

**I. PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT**

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

**A. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

## B. TERMS OF AGREEMENT

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

2. Responsibilities of CONTRACTOR - CONTRACTOR agrees:

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

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

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

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

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

3) If the data obtained by CONTRACTOR from COUNTY includes PII, CONTRACTOR shall also comply with the substantive privacy and security requirements in the CMPPA Agreement between the SSA and the CHHS and in the Agreement between the SSA and DHCS, known as the IEA. The specific sections of the IEA with substantive privacy and security



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

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

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

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

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

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

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

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**MARK A. REFOWITZ**  
DIRECTOR

**RICHARD SANCHEZ**  
ASSISTANT DIRECTOR

**ANNA PETERS**  
DIRECTOR  
ADMINISTRATION SERVICES

**SUSIE KIM, J.D.**  
DIVISION MANAGER

405 W. 5<sup>th</sup> STREET, SUITE 600  
SANTA ANA, CA 92701  
(714) 568-5809  
FAX: (714) 834-4450

**ADMINISTRATIVE SERVICES  
CONTRACT SERVICES**

DATE: June 5, 2015

TO: Interested Parties

FROM: County of Orange, Health Care Agency  
Contract Services Division

**SUBJECT: Request for Applications (RFA) – Mental Health Community Educational Events**

The County of Orange (County) Health Care Agency (HCA) is seeking applications from qualified organizations to provide Mental Health Community Educational Events, in accordance with the Mental Health Services Act of 2004 (Proposition 63), as outlined in the County Prevention and Early Intervention Plan.

The County Board of Supervisors has authorized HCA to enter into a Master Agreement with selected applicants beginning July 1, 2015, and ending June 30, 2017. A copy of the Master Agreement that will be used to develop individual contracts with selected applicants, under the same terms and conditions, is available as Attachment I to this RFA.

If after review of this RFA, which includes Attachments I, II, and III, your organization is interested in providing the Mental Health Community Educational Events specified in this solicitation, complete and submit an Application per the instructions referenced in section IV of this RFA.

The County reserves the right to modify this RFA or cancel it at any time. This RFA is not in any way to be construed as an agreement, obligation, or contract between the County and any party submitting an Application, nor will the County pay for any costs associated with the preparation of an Application.

**DUE DATE FOR REQUEST FOR APPLICATIONS**

HCA plans to review all applications received and enter into contract with applicants that are approved. Approved Applications will be awarded contracts on a first come first serve basis. Services may commence shortly after contracts are signed by individual parties and executed. Applications will be accepted on a continuous basis until funding is depleted, or no later than **December 31, 2016. Submission of early applications is strongly encouraged.**

Submit e-mail responses to:

Debbie Box, Procurement Administrator  
Health Care Agency – Contract Services  
**[dbbox@ochca.com](mailto:dbbox@ochca.com)**

All questions regarding this solicitation are to be posted online via the BidSync Question and Answer section. Applicants are expected to thoroughly read through the entire solicitation package before posting questions. It is up to each individual applicant to determine if they meet the eligibility requirements to submit an application identified in Section I.B., and other sections of the solicitation if applicable. HCA does not provide assistance in this matter beyond the requirements stated in this solicitation. Responses from HCA will be posted to BidSync as promptly as possible. The Question and Answer section will be closed to new questions on **Thursday, December 1, 2016 at 4:00 P.M. PST**. Any response or communication from a County representative other than written answers posted on BidSync will be unauthorized and the County shall bear no responsibility for any reliance upon unauthorized communications.

If you know of any qualified organizations that may be interested in this solicitation, please feel free to refer them to BidSync to view the solicitation. Your consideration of this solicitation is appreciated.

# County of Orange Health Care Agency



## Request for Applications Mental Health Community Educational Events

Released  
June 5, 2015

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Attachment I – Master Agreement and Attestation Form

Attachment II – Forms A-C

Attachment III – Proposed Budget Template

Attachment IV – Benchmarks, Deliverables, and Installments Planning Template

**NOTE: Forms and attachments in PDF and/or Excel format are posted on BidSync as separate attachments to this solicitation.**

## INTRODUCTION

## SECTION I

**A. APPLICATION FOCUS AND BACKGROUND**

The County of Orange (County) Health Care Agency (HCA) is seeking applications from qualified organizations to provide Mental Health Community Educational Events in Orange County, California. The primary goal of this program is to support individuals or groups who are able to produce meaningful artistic event(s) to a diverse population that can deliver an effective message towards reducing mental health stigma. It is anticipated that **multiple** contracts will be awarded for events that meet the program needs and, or criteria and funding remains available.

Research indicates that mental illness stigma is a barrier to recovery<sup>1</sup> and it negatively affects participation in mental health care services<sup>2</sup>. According to the federal Substance Abuse and Mental Health Services Administration (SAMHSA), one of the causes of social exclusion and discrimination associated with mental illnesses is a misperception that people who have mental illnesses lack the same interests and abilities as everyone else. Evidence points to the fact that stigma reduction art events such as plays, skits, art shows, videos, slide shows, film series, poetry readings, dance productions and other similar events can increase knowledge and reduce the stigma of mental illness. In addition, having persons who have experience with mental illness and/or substance use disorders in art events supports their wellbeing. "Participation in arts programs can interrupt the drift to a negative lifestyle, helping to replace destructive behavior with positive activities and interests."<sup>3</sup> Furthermore, performing arts have also shown to promote empowerment in individuals impacted and allow communities to dialogue about illnesses.<sup>4</sup> This is accomplished through education via an art-based method, that uses social learning (social cognitive theory) through observation.<sup>5</sup>

**B. ELIGIBILITY TO SUBMIT APPLICATIONS**

To be eligible to contract with the County, an individual or entity must not be listed on the current Cumulative Sanction List of the Office of the Inspector General (U.S. Department of Health and Human Services), the General Services Administration's list of parties excluded from federal programs, or the California Medi-Cal Suspended and Ineligible Provider List. **HCA will not review any Application submitted by an individual or entity found to be on any of these lists.**

HCA plans to use the following links to identify individuals and entities that are not eligible to contract with the County of Orange: <http://exclusions.oig.hhs.gov>, <https://www.sam.gov/portal/public/SAM/>, and Medi-Cal Suspension Search Database. Each applicant should verify that it is not on any list prior to preparing an Application to submit in response to this solicitation. Correction of any errors found on any sanction list is the sole responsibility of the applicant and must be made prior to the day the Application is submitted.

<sup>1</sup> Link, B.G., Phelan, J.C. (2001). Conceptualizing stigma. *Annual Review of Sociology*, 27, 363-385.

<sup>2</sup> Corrigan, P.W. (2004). How stigma interferes with mental health care. *American Psychologist*, 59(7), 614-625.

<sup>3</sup> Office of Juvenile Justice and Delinquency Prevention News. Sep/October 2010. Retrieved from [http://www.ncjrs.gov/html/ojjdp/news\\_at\\_glance/232007/sf\\_2.html](http://www.ncjrs.gov/html/ojjdp/news_at_glance/232007/sf_2.html)

<sup>4</sup> Boone G and Jaganath D. Performance as a Component of HIV/AIDS Education: Process and Collaboration for Empowerment and Discussion. *American Journal of Public Health*, March 2011. Vol. 101. No.3:455-464

<sup>5</sup> Singhal A, Rogers EM. (2003) *Combating AIDS Communication Strategies in Action*. New Delhi, India: Sage Publication.

**INTRODUCTION****SECTION I**

HCA requires all potential individuals and/or contract entities to self-disclose any pending charges or convictions for violation of criminal law and/or any sanction or disciplinary action by any federal or state law enforcement, regulatory or licensing agency or licensing body, including exclusion from Medicare and Medicaid programs.

During the term of the contract between the contractor and the County, and in accordance with its existing provisions, if a contractor and/or an individual becomes an ineligible person, the contractor and/or individual shall be removed from any responsibility and/or involvement with the County contracted obligations related to any direct and/or indirect federal or state health care programs and any other federal and state funds. An ineligible person is defined as any individual or entity who is currently excluded, suspended, debarred or otherwise ineligible to participate in the federal health care programs; or has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated into the federal health care programs after a period of exclusion, suspension, debarment, or ineligibility.

The County does not require, and neither encourages or discourages, the use of lobbyists or other consultants for the purpose of securing business.

HCA reserves the right to disqualify any applicant on the basis of any real or apparent conflict of interest that is disclosed by the application submitted or any other information available to HCA. This disqualification is at the sole discretion of HCA. Any applicant submitting an application herein waives any right to object to HCA's exercise of this right, now or at any future time, before anybody or agency including, but not limited to, the County Board of Supervisors or any court of competent jurisdiction.

**Causes for Disqualification**

HCA in its sole, absolute and unfettered discretion will determine whether or not an applicant is qualified and responsive. This determination may be based on one or more of the following:

- Evidence of collusion amongst applications.
- Lack of business skills or financial resources necessary to operate this business successfully, as revealed by either financial statements or experience statement.
- Lack of responsibility as shown by past work, references, or other factors.
- Applicant is in arrears or in default to the County on any debt or agreement or defaults upon any obligation to the County, or has failed to faithfully perform any previous agreement with the County at HCA's sole determination.
- Submission of an application that is late, incomplete, conditional, ambiguous, obscure, or which deviates from the specifications in this solicitation, or has irregularities of any kind.
- Other causes as HCA deems appropriate.

HCA's determination as to whether applicant is qualified and responsive will be based on the information furnished by the applicant in this solicitation, interview(s) with the applicant (if applicable), as well as from other sources determined to be valid by HCA. Award will not be made until after such investigations, as are deemed necessary, are made by HCA regarding the experience

**INTRODUCTION****SECTION I**

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and financial responsibility of applicant, which each applicant agrees to permit by submitting its application.

Applications must be valid for a minimum of 365 days from the due date of this solicitation.

**C. CONTRACT TERM AND FUNDING AVAILABILITY**

The County plans to contract with all applicants who meet the requirements of this solicitation to provide the subject services. At the discretion of HCA, the initial term of the agreements resulting from this solicitation may be renewed for an additional term or terms so long as the aggregate of all terms do not exceed five (5) years in duration without a competitive bid process. Any renewal is contingent upon available funding, contractor performance, need for services, and HCA policies.

The contract awarded through this solicitation is anticipated to be fee for service, and each selected applicant's contract will be a part of an aggregate master agreement. The funding source for these services is Mental Health Services Act - Prop 63 funds. Any contract resulting from this solicitation is contingent upon sufficient funds being made available by federal, state, and/or county governments for the term of the contract. HCA reserves the right to revise the contract term stated in this solicitation. Start-up funds are not available for these services.

Reimbursement is subject to each individual art event. The reimbursement is dependent on amount of people expected in attendance, venue, and cost to put on event but shall be approximately within the amount of \$30.00 per person in attendance. Reimbursements will be made in installments in accordance with the attached Master Agreement.

**D. EVALUATION OF APPLICATIONS AND SELECTION OF PROVIDERS**

HCA plans to review all applications received and enter into contract negotiations with applicants that are approved. All contracts will be awarded on a first come first serve basis. The County has sole discretion to not contract with any applicant that meets minimum qualifications for reasons such as but not limited to: duplication of events, timing coincides with an event already awarded, or saturation in one geographical area, target population, or type of event.

HCA has the right to conduct a compensation plan analysis to review and audit all business records and related documents of any and all applicants (including an affiliated or parent company), determine the adequacy, fairness, and reasonableness of the application, and to contact any and all client references.

Following the review of applications, the HCA Director or Designee will approve a recommendation regarding the selection of an applicant. Award of the Master Agreement for the individual contracts will not be effective unless and until it is authorized by the County of Orange Board of Supervisors.



**INTRODUCTION****SECTION I**

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**E. COUNTY'S RIGHTS**

The County reserves the right to:

- Modify this solicitation.
- Cancel this solicitation at any time, in whole or in part.
- Accept any application as offered.
- Reject any or all applications.
- Disqualify an applicant, or terminate a contract for false information submitted in response to this solicitation.
- Contract for all or some of the stated services.
- Based on the County's needs and availability of funding at the time of selection or during contract negotiations, modify the scope of service described herein.
- Waive, at its sole discretion, any procedural irregularity, immaterial defect, or other impropriety deemed reasonably correctable or not warranting rejection of the application.
- Ask applicants for additional documentation and/or information to further determine financial/organization stability.
- The County may, after providing written justification to be included in the procurement file, make the determination that an immediate award of the contract is necessary to protect the substantial interests of the County. The award of a contract shall in no way compromise the protester's right to the protest procedures outlined herein.

**F. PROTEST PROCESS**

In the event an applicant believes that this solicitation is unfairly restrictive, ambiguous or contains conflicting provisions, applicant may submit a grievance or protest.

**Protest of Application/Solicitation Specifications**

All protests related to an application or solicitation specifications must be submitted to HCA Contract Services no later than five (5) business days prior to the close of the solicitation. Protests received after the five (5) business day deadline will not be considered by the County. In the event the protest of specifications is denied and the protester wishes to continue in the solicitation process, it must still submit an Application prior to the close of the solicitation in accordance with the application submittal procedures provided in the solicitation.

**Protest of Award of Contract**

In protests related to the award of a contract, the protest must be submitted no later than five (5) business days after the "Notice of Intent to Award Contract" is provided by HCA Contract Services. Protests relating to a proposed contract award, which are received after the five (5) business day deadline will not be considered by the County.

**INTRODUCTION****SECTION I**Procedure

All protests must be typed under the protester's letterhead and submitted in accordance with the provisions stated. All protests shall include at a minimum the following information:

1. The name, address, and telephone number of the protester.
2. The signature of the protester or the protester's authorized representative.
3. The name of the solicitation or number of the solicitation.
4. A detailed statement of the legal and/or factual grounds for the protest.
5. The form of relief requested.

Written protests must be sent to: County of Orange/Health Care Agency  
Contract Services Division  
405 W. 5th Street, Suite 600  
Santa Ana, CA 92701-4637  
Attn: Division Manager  
FAX: (714) 834-4450

Appeal Process

If the protester disagrees with the decision of the Contract Services Division Manager, the protester may submit a written notice within three (3) business days from receipt of the Contract Services Division Manager's decision to the Office of the County Purchasing Agent requesting an appeal to the Procurement Appeals Board.

Written appeals must be sent to: County of Orange/Executive Office  
Procurement  
1300 S. Grand Avenue, Building A  
Santa Ana, CA 92705  
Attn: County Purchasing Agent  
FAX: (714) 567-5057

Within fifteen (15) business days, the County Purchasing Agent will review all materials in connection with the protest, assess the merits of the protest and provide a written determination that shall contain his or her decision on whether the protest shall be forwarded to the Procurement Appeals Board.

The decision of the County Purchasing Agent on whether to allow the appeal to go forward will be final and there shall be no right to any administrative appeals of this decision.

**G. CONFIDENTIALITY**

Pursuant to California law, all information contained in an applicant's response to this solicitation may be public record subject to disclosure to any member of the public who requests it through the California Public Records Act. If it is necessary to include proprietary/trade secret information in an application response, the County recommends that the applicant clearly and prominently mark the information they believe falls within this category.

**INTRODUCTION****SECTION I**

HCA will attempt to notify the applicant if disclosure is requested of information that has been identified as proprietary/trade secret information in order to give the applicant an opportunity to seek a court order prohibiting disclosure of such information. However, due to statutory time limits the County has in response to request for public records, County will be able to give the applicant only a short period of time in which to seek such a court order before County will be required to disclose the requested information. Further, it is entirely the applicant's responsibility to assert that information the applicant believes is proprietary/trade secret information should not be disclosed. County will not make such a claim for the applicant but will obey a valid court order obtained by the applicant prohibiting disclosure of such information.

If an applicant believes that a specific section of its application is confidential, applicant will isolate the pages marked confidential in a specific and clearly labeled section of its application response. Applicant will include a written statement as to the basis for considering the marked pages confidential including the specific harm or prejudice if disclosed and HCA will review the material, applicant's concerns and make an independent determination.

**H. ADDENDUMS**

HCA reserves the sole right to interpret or change any provision of the solicitation at any time prior to the application submission date. Any and all interpretations or changes will be in the form of a written addendum, which will be furnished to all applicants through the BidSync System. All addendums issued will become part of the solicitation and resultant agreement. Applicants hereby acknowledge their receipt of any addendum by being registered in the BidSync System and acknowledge it is the applicant's responsibility to check for, and read all addendums posted in the BidSync System.

Should such addendum require information not previously requested, HCA at its sole discretion, may determine that a time extension is required for the submission of Applications, in which case an addendum will indicate the new application submission date.

**I. CONTRACT TERMS AND CONDITIONS**

HCA anticipates that the term of the contract will be July 1, 2015 through June 30, 2017. Contractors are expected to begin providing services after the contract is signed by individual parties and executed.

The attached Master Agreement (**Attachment I**) is a **sample** of the agreement that will be used to develop individual contracts and is provided for purposes of reference only. The County reserves the right to change or modify the terms and conditions, and/or services described in the final agreement approved by the Board. The attached Master Agreement is not in any way to be construed as an agreement, obligation, or contract between the County and any party submitting an application.

The successful applicant may be required to attend a post-award meeting with HCA for discussion of the terms and conditions of the contract. HCA staff will coordinate any such meeting(s). HCA reserves the right to clarify any contractual terms with the concurrence of applicant; however, any

**INTRODUCTION****SECTION I**

substantial non-conformity in the application as determined by HCA, will be deemed non-responsive and the application rejected. Any contract(s) resulting from this solicitation will contain the entire agreement between HCA and the applicant relating to this requirement and will prevail over any and all previous agreements, contracts, applications, negotiations, purchase orders, or master agreements of any form.

**J. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

Insurance coverage and limits for the awarded agreements will vary based upon the identified services and will be determined during contract negotiations. The County's current requirements for indemnification and insurance are set forth below.

1. Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Agreement. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.
2. Prior to the provision of services under this Agreement, Contractor agrees to purchase all required insurance at Contractor's expense and to submit to County the COI, including all endorsements required herein, necessary to satisfy County that the insurance provisions of this Agreement have been complied with and to maintain such insurance coverage with County during the entire term of this Agreement. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Agreement shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.
3. Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Agreement shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Agreement. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Agreement for inspection by County representative(s) at any reasonable time.
4. All SIRs and deductibles shall be clearly stated on the COI. If no SIRs or deductibles apply, indicate this on the COI with a zero (0) by the appropriate line of coverage. Any SIR or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the CEO/Office of Risk Management upon review of Contractor's current audited financial report.

**INTRODUCTION****SECTION I**

5. If Contractor fails to maintain insurance acceptable to County for the full term of this Agreement, County may terminate this Agreement.
6. Qualified Insurer:
  - a. The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).
  - b. If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.
7. The policy or policies of insurance maintained by Contractor shall provide the minimum limits and coverage as set forth below:

COVERAGE	MINIMUM LIMITS
Comprehensive General Liability with broad form property damage and contractual liability	\$1,000,000 combined single limit per occurrence. \$2,000,000 aggregate.
Automobile Liability, including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claims made \$1,000,000 aggregate
Sexual Misconduct Liability	\$1,000,000 per occurrence
Employee Dishonesty	\$1,000,000 per occurrence

8. The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 0001, or a substitute form providing liability coverage at least as broad.
9. The Business Automobile Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing coverage at least as broad.
10. The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:
  - a. An Additional Insured endorsement using ISO form CG2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, and agents as Additional Insureds.

**INTRODUCTION****SECTION I**

- b. A primary non-contributing endorsement evidencing that the contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
11. All insurance policies required by the agreement shall waive all rights of subrogation against the County of Orange and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.
12. The Workers' Compensation policy must include a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.
13. If Contractor's Professional Liability policy is a "claims made" policy, Contractor shall agree to maintain Professional Liability coverage for two (2) years following completion of Agreement.
14. The Commercial General Liability policy shall contain a "severability of interests" clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).
15. The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate of Insurance.
16. All insurance policies required by the agreement shall give the County of Orange 30-day notice in the event of cancellation and 10 days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.
17. County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Agreement. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.
18. County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable COIs and endorsements with County incorporating such changes within thirty (30) calendar days of receipt of such notice, this Agreement may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.
19. The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement, nor act in any way to reduce the policy coverage and limits available from the insurer.

Prior to the provision of services, the successful applicants will be required to purchase all insurance, at the above minimum standards, at applicant's expense, and to deposit with the County Certificates of Insurance, including all endorsements necessary to satisfy the provisions identified above.

If Self-Insured, the successful applicants will be required to provide a Certificate of Self-Insurance that meets, at minimum, the requirements identified above.

**A. TARGET POPULATION**

Mental Health Community Educational Events services shall be provided to Orange County residents to support individuals or groups who are able to produce meaningful artistic event(s) to a diverse population that can deliver an effective message towards reducing mental health stigma.

**B. SERVICES TO BE PROVIDED**

1. Organizations may submit applications for any of the following type of events:

- a. Theatre
- b. Dance
- c. Skit
- d. Reading (poetry, stories)
- e. Video
- f. Film Series
- g. Art Exhibit
- h. Or other form of event(s) as agreed in advance by the County

2. Organizations may submit applications to contract with the County for the services described in this Request for Applications (RFA), all applications must meet **all** of the following minimum qualifications;

- a. Sufficient information is provided about the proposed event(s) to allow adequate review.
- b. The intended audience is Orange County residents.
- c. The event(s) will be delivered to Orange County residents with a focus on underserved and unserved cultural groups, including but not limited to: youth, older adults, lesbian, gay, bisexual, transgender, questioning and intersex (LGBTQI), Veterans, deaf and hard of hearing, monolingual non-English speakers or some other sufficiently justified group. The event may be in English or in other languages including Spanish, Vietnamese, Korean, Farsi, American Sign Language or others appropriate to the proposed audience.
- d. The venue/location for the performance(s)/event(s) shall be located within Orange County.
- e. The venue/location for the performance(s)/event(s) shall be appropriate for the intended audience.
- f. The cost of producing an event(s) is approximately at thirty dollars (\$30.00) per planned number of attendees.
- g. The number of people the event(s) proposed will reach is at or above one hundred (100).
- h. At least one fourth of the performers/artists for the performance(s)/event(s) shall be mental health consumers and/or family members of mental health consumers.
- i. The sponsoring group and/or person shall have had prior experience in coordinating and/or producing the proposed type of performance(s)/event(s).

- j. The performance(s) will occur on or before June 30, 2017 as specified in the Agreement for Mental Health Community Educational Events (Attachment I).
- k. The message of the event about mental health is positive and designed to reduce stigma.
- l. The publicity is appropriate to the intended audience.
- m. The event(s) appears to be appropriate for all ages (i.e. family friendly and or family-oriented).
- n. It is a quality artistic event(s) as indicated by prior reviews, multiple requests for this specific event, expert opinion or by some other appropriate evidence. If this event(s) has not been produced before, information about past events by the same group or individual can serve as indicators of the potential quality of this event.
- o. Individual support will be made available immediately following each performance(s)/event(s) for referral and/or linkage to various County and community-based behavioral health services.
- p. Behavioral health service resources will be made available to persons in attendance at the event, and the County's website (<http://www.ochealthinfo.com/behavioral>) may be accessed for information.
- q. If any of the above criteria cannot be met, justification must be included in the application and approval will be at the sole discretion of the County.

### **C. PERFORMANCE OUTCOMES**

The performance objectives are art event driven. The Mental Health Service Act emphasizes outcomes-based program<sup>6</sup> design. This means that organizations for the Mental Health Community Educational Events should, from the planning stage on, focus on the impact the program will have on participants in reducing mental health stigma and develop ways of evaluating and reporting this impact. Therefore, applicants must propose to implement an evaluation of their efforts, using process and outcome performance measures that document the effectiveness of the art event(s). It is strongly recommended to use measurement tools and scales effective in evaluating art events (e.g., pre/post-tests of stigmatizing attitudes, prejudice, and discrimination).<sup>7</sup>

<sup>6</sup> California Mental Health Services Act. Prevention and Early Intervention Clearing House. Retrieved June 51, 2011. <http://www.preventionearlyintervention.org/go/PEIImplementers/OutcomesandEvaluation.aspx>

<sup>7</sup> Corrigan Patric. *Toolkit for evaluating programs meant to erase the stigma of mental illness*. Retrieved December 22, 2011. <http://www.dmh.ca.gov/peistatewideprojects/docs/CorriganToolkitforEvaluation.pdf>



- A. Use the Proposal Preparation Checklist (Form A – Attachment II) to plan and monitor solicitation Application preparation as well as to verify completion of all materials before submission.
- B. Applicant’s Event Application must clearly meet all of the requirements of this solicitation.
- C. Applicants should review all requirements and instructions to ensure that each requirement is met. HCA shall not be responsible for any oral instructions given by any employees of HCA in regard to the Application instructions, specifications, or Application documents as described in this solicitation.
- D. Applications and requested documents must be electronically uploaded in PDF format, via BidSync. Hard copy applications will not be accepted. Upload the following in one (1) file labeled [Solicitation Name]-[Applicant Name]:
1. Attestation (Attachment I)
  2. Agency Information and applicable documents/information (Section IV.A.)
  3. Event Application (Section IV.B.)
  4. Proposal Checklist (Form A – Attachment II)
  5. Agency Description (Form B – Attachment II)
  6. Board of Directors (Form C – Attachment II)
  7. Proposed Budget Template (Attachment III)
  8. Benchmarks, Deliverables, and Installments Planning Template (Attachment IV)
- Allow sufficient time to upload the required file. After the 4:00 P.M. Pacific Time (PT) application deadline, BidSync will not allow any uploads. **If the file is not uploaded successfully by the 4:00 P.M. PT application deadline, your application will not be accepted.**
- E. Provide accurate and honest information. Reviewers tend to respond more favorably to a candid account of problems and a realistic plan to address them, than a glossing over of an apparent problematic situation. Information that is deliberately inaccurate may prompt an investigative review and will affect the evaluation of the Application.
- F. Provide documentation where necessary, including items such as forms, licenses, etc.
- G. If you omit any required information or data, explain why.

**APPLICATION FOR MENTAL HEALTH COMMUNITY EDUCATIONAL EVENTS SECTION IV**

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**A. AGENCY INFORMATION**

1. Complete the Agency Description (Form B – Attachment II). Ensure Form B is signed prior to scanning and uploading into BidSync.
2. Complete the Board of Directors (Form C – Attachment II).
3. Provide copies of the documents below. Include an index of all the documents included, and an explanation for any document requested but not provided.
  - a. If incorporated, Board of Directors resolution empowering a Corporate Officer to act on behalf of the organization by his/her signature alone.
  - b. If not incorporated, documentation empowering an Authorized Representative to act on behalf of the organization by his/her signature alone.
  - c. Fictitious Business Name statement filed with the County Clerk and proof of publication.
  - d. Partnership papers and/or joint venture agreements.
  - e. Evidence of federal/state tax status.
  - f. IRS W-9 Form: Request for Taxpayer Identification Number and Certification.
  - g. Business License/Certifications/Conditional Use Permit (CUP).
  - h. Recent financial statement prepared by an independent Certified Public Accounting (CPA) firm.
  - i. Any audits, reviews, or inspection reports completed by a CPA firm, regulatory agency (e.g., Occupational Safety and Health Administration), or other government agency within the last twelve (12) months.
  - j. Data Universal Number System (DUNS): A unique 9-digit identification number required by the federal government as part of their financial request and reporting process, which can be obtained free of charge from Dun and Bradstreet's website ([www.dnb.com](http://www.dnb.com)) or by calling (866) 705-5711. Every applicant is required to provide a DUNS number regardless of the funding source of this solicitation.
4. Acknowledgement that you will submit a copy of your organization's insurance certificates and endorsements to the County prior to the services start date, and that the limits will, at a minimum, meet the minimum limits referenced in Section I.J. of this solicitation.
5. Describe any pending audits, pending litigation, and/or investigation involving the organization. Limit your response to one-half (1/2) page of text.

**APPLICATION FOR MENTAL HEALTH COMMUNITY EDUCATIONAL EVENTS SECTION IV**

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7. Briefly describe any performance issues and/or audit or review of any contractual documents (e.g., invoices, units of service reports, etc.) within the last two (2) years that resulted in a corrective action plan, reimbursement of money to funder, investigation, and/or termination of any contract(s) between your organization and the County, other government entity, and/or private organization. Failure to disclose performance issues (as identified above) may result in disqualification of your application.

For each performance issue include:

- a. The type of contract, contract term (dates), funding amount and services provided.
  - b. The issues and circumstances.
  - c. How and when the issues were resolved.
  - d. Your plans to ensure that the issues will not reoccur in future contracts.
8. Attestation Form - ensure the form is signed prior to scanning and uploading into BidSync. Upload the Attestation Form only; do not upload the pages containing the Master Agreement.

The attached Master Agreement (Attachment I) is a sample of the agreement that will be used to develop individual contracts with selected applicants, and is provided for purposes of reference only. It is not in any way to be construed as an agreement, obligation, or contract between the County and any party submitting an Application.

The County reserves the right to change or modify the terms and conditions described in the Master Agreement. Any changes or modifications made after submission of this Application will be discussed with and agreed upon between the selected applicant and the County prior to executing the final agreement.

**All selected applicants must be willing to accept the terms and conditions of the Master Agreement in its entirety; there will be no negotiations.**

## **B. EVENT APPLICATION**

1. Name of art event(s).
2. Describe each art event based on the following criteria:
  - a. Type of event;
  - b. Targeted audience;
  - c. Describe the impact your event(s) will have on stigma related to mental illness. Explain how the event helps to reduce mental health stigma in the targeted audience and how the event will change ideas, feelings and/or reactions to mental illness;
  - d. If the proposed art event(s) has been previously performed or shown, indicate where, when, and what were the outcomes? Include copies of any reviews;

**APPLICATION FOR MENTAL HEALTH COMMUNITY EDUCATIONAL EVENTS SECTION IV**

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- e. Identify the performers or artists who will participate. Specify if any performers/artists have experience with mental illness, personally or as a family member. Identify the percentage of all performers/artists that have this experience;
- f. Estimated number of attendees;
- g. Promotional strategies (i.e. how the targeted audience will be informed about the event);
- h. Number of times the event will be performed or shown and length of time of the event;
- i. The language(s) used to perform the event (e.g Sign Language, English, Spanish, Farsi, Korean, etc.);
- j. The location(s) of the event(s);
- k. Anticipated date(s) the event(s) will occur: and
- l. Any other relevant information you would like us to know.

**C. EVENT COSTS**

What is the anticipated cost to produce this event(s)?

- 1. Provide a cost break down by using the Proposed Budget form (Attachment III) in terms of administrative costs (if any), labor/personnel costs, and services & supplies/materials costs.
- 2. Provide a Budget Narrative that supports and justifies the cost of the event.

**D. PERFORMANCE OUTCOMES**

Please include sample evaluation tools to be used in evaluating the art event.

- 1. Describe the plan to evaluate and measure the art event(s). Please include a description or sample of all evaluation instruments intended to measure impact.
  - a. Process evaluation uses appropriate tools to measure and track units of service utilization. This may include number of individuals and families served and events coordinated via the services/activities. Please provide units of service (numbers of participants/event) based on a 12-month period. Examples may include the following: Number, type, and relevance of art sessions held; regularity and outcomes of team meetings and planning sessions.
  - b. Impact evaluation will determine if intervention had effect by measuring changes and these changes may be evaluated through self-reported improvement resulting from the art event(s) provided. Overall improvement in psychosocial indicators may be used and are highly encouraged to measure program impact. Examples of measures may include: change in participants' knowledge, attitudes, behavioral intentions, self-efficacy, values, beliefs, ideas, feelings, and/or reactions to mental illness.
- 2. Complete the Benchmarks, Deliverables, and Installments Planning Template (Attachment IV).