



**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

28 December 3, 2019

CELIA ZAVALA  
EXECUTIVE OFFICER

Los Angeles County  
Board of Supervisors

Hilda L. Solis  
First District

Mark Ridley-Thomas  
Second District

Sheila Kuehl  
Third District

Janice Hahn  
Fourth District

Kathryn Barger  
Fifth District

December 03, 2019

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Christina R. Ghaly, M.D.  
Director

Hal F. Yee, Jr., M.D., Ph.D.  
Chief Deputy Director, Clinical Affairs

Dear Supervisors:

**APPROVAL OF A SOLE SOURCE AGREEMENT  
WITH PHILIPS HEALTHCARE  
(ALL SUPERVISORIAL DISTRICTS)  
(3 VOTES)**

**CIO RECOMMENDATION: APPROVE (X)  
APPROVE WITH MODIFICATION ( )  
DISAPPROVE ( )**

313 N. Figueroa Street, Suite 912  
Los Angeles, CA 90012

Tel: (213) 240-8101  
Fax: (213) 481-0503

[www.dhs.lacounty.gov](http://www.dhs.lacounty.gov)

*To ensure access to high-quality,  
patient-centered, cost-effective  
health care to Los Angeles County  
residents through direct services at  
DHS facilities and through  
collaboration with community and  
university partners.*

**SUBJECT**

Approval of a successor sole source agreement with Philips North America LLC for maintenance and repair services of medical equipment for the Department of Health Services and Department of Medical Examiner-Coroner.

**IT IS RECOMMENDED THAT THE BOARD:**

1. Delegate authority to the Director of Health Services (Director), or authorized designee, to execute a successor sole source agreement (Agreement) with Philips North America LLC (Philips) for a term of ten (10) years until and through December 31, 2029, with a maximum County obligation of \$52,266,232 (\$5,226,623 annually), for the provision of various medical equipment maintenance and repair services at the Department of Health Services (DHS) facilities, and the Department of Medical Examiner-Coroner (MEC).



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2. Delegate authority to the Director, or authorized designee, to execute amendments to the Agreement to: (a) add, delete and/or modify certain terms and conditions and as required by applicable law, County policy, the Board and/or the CEO, all with prior approval of County Counsel; (b) provide for emergency, unforeseen and as-needed services, out-of-scope repairs, additional equipment and additional facilities; (c) make changes to the maintained equipment and/or scope of services based on operational needs; (d) add and/or delete equipment, services, and/or other County departments and/or facilities; and (e) effect the termination of the Agreement in accordance with terms and conditions contained in the Agreement, all subject to approval by County Counsel.

3. Delegate authority to the Director, or authorized designee, to increase the maximum County obligation under the Agreement by up to 40% for: (a) emergency, unforeseen and as-needed maintenance, repair and/or professional/support services and out of scope repairs; (b) adding maintenance for equipment that is no longer covered by the manufacturer warranty; (c) adding DHS and other County department facilities.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Approval of the first recommendation will allow the Director, or authorized designee, to execute a successor sole source Agreement, substantially similar to Exhibit I, with Philips for a term of ten (10) years for provision of maintenance and repair services for various medical equipment at the DHS facilities, and MEC. The current Agreement expires on December 31, 2019.

Philips currently maintains and services over 1,700 pieces of DHS medical equipment and related software, including equipment for patient monitoring, radiology, imaging, cardiology and two (2) X-ray machines for MEC. DHS has standardized Philips patient monitors across the enterprise. The patient monitors are used throughout DHS facilities to enhance patient care and improve clinical performances by identifying patients in need, supporting caregivers on the go, consolidating patient information, and providing ongoing support for staff. Philips radiology and imaging equipment such as X-ray, ultrasound and position emission tomography/computed tomography scanners are also used in various DHS facilities to examine, diagnose and assist with medical procedures. Philips' software maintenance services include implementation of software updates and remote technical support around the clock.

Approval of the second recommendation will allow the Director, or authorized designee, to amend the Agreement to make administrative or required changes to the terms and conditions, add equipment and services for additional DHS and other County department locations, cover the cost of emergency, unforeseen, as needed and out-of-scope equipment maintenance and repair services, for operational efficiencies, as well as to effect the County's right to terminate the Agreement for any reason. Approval of this recommendation will allow the Agreement to be amended timely, so that the critical equipment supporting patient care is maintained appropriately, to ensure the safety of patients and facility staff, as well as to meet the requirements of the Joint Commission and terminate the Agreement in accordance with the terms and conditions. The Joint Commission requires facilities to ensure routine preventive maintenance, timely repairs, and performance/safety testing of its medical equipment to maintain patient safety for accreditation and certification.

Approval of the third recommendation will allow the Director, or authorized designee, to amend the Agreement to increase the maximum County obligation by up to 40% for emergency, unforeseen and as-needed maintenance, repair and professional/support services, out-of-scope repairs, maintenance for additional equipment that is no longer covered by the manufacturer warranty, add DHS facilities and other County department facilities.

Based on experience with equipment maintenance and repair service agreements, DHS believes that the requested maximum 40% increase in the maximum County obligation for the full term of the Agreement is appropriate, since adding even a few pieces of equipment or an additional facility may require a significant cost increase. Facilities will only request that equipment, locations, emergency work and/or support services be added to this Agreement if additional services are needed and funding is available in a facility's budget. On November 19, 2019, in accordance with Board Policy 5.120, DHS notified the Board of its intent to request a delegation of authority in excess of 10%.

### **Implementation of Strategic Plan Goals**

The recommended actions support Strategy II.2 "Support the Wellness of Our Communities" and III.3 "Pursue Operational Effectiveness, Fiscal Responsibility, and Accountability" of the County's Strategic Plan.

### **FISCAL IMPACT/FINANCING**

The County maximum obligation is \$52,266,232 for the term of the Agreement (\$5,226,623 annually).

Funding is included in the DHS Fiscal Year 2019-20 Final Budget and will be requested in future fiscal years as appropriate.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On October 18, 2005, the Board approved Agreement H-701585 with Philips, the Original Equipment Manufacturer (OEM), to provide equipment maintenance and support services as a purchase order conversion. Agreement H-701585 was amended on several occasions, to extend its term through December 31, 2019 and to add maintenance and repair services for equipment manufactured by GE, Datex, and Siemens. Although not the OEM of that equipment, Philips has provided maintenance and repair services at discounted rates through its multi-vendor program. Philips trains its technicians to maintain equipment from other companies to ensure that equipment is serviced in accordance with the OEM standards.

The services provided under the Agreement are highly specialized and cannot be provided by County staff. Further, these services are only needed on a part-time and/or intermittent basis. Therefore, the Agreement is exempt from Proposition A (Los Angeles County Code Chapter 2.121) and not subject to the Living Wage Program (Los Angeles County Code Chapter 2.201).

The Chief Information Officer (CIO) has reviewed the Board letter and recommends approval of the successor Agreement. CIO concurs with the Department's recommendation and the CIO Analysis is attached as Attachment C.

The successor Agreement includes the most recent Board required provisions.  
County Counsel has approved Exhibit I as to form.

**CONTRACTING PROCESS**

On February 6, 2019, DHS notified the Board of its intent to negotiate a successor Agreement with Philips (Attachment A). Philips is the sole provider of maintenance services and parts for its proprietary technology and firmware included in the equipment maintained under the Agreement. Only Philips technicians are certified to provide necessary maintenance and repair services for proprietary technology in its equipment to meet requirements by the Joint Commission, as Philips does not provide training to third party vendors. The sole source checklist is attached as Attachment B.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

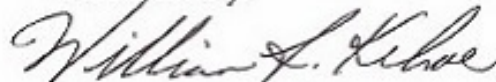
Approval of the recommendations will ensure ongoing maintenance and repair services for medical equipment at DHS facilities and MEC.

Respectfully submitted,



Christina R. Ghaly, M.D.  
Director

Reviewed by:



WILLIAM KEHOE  
Chief Information Officer

CRG:al

Enclosures

c: Chief Executive Office  
County Counsel  
Executive Office, Board of Supervisors

February 6, 2019

**Los Angeles County  
Board of Supervisors**

**Hilda L. Solis**  
First District

**Mark Ridley-Thomas**  
Second District

**Sheila Kuehl**  
Third District

**Janice Hahn**  
Fourth District

**Kathryn Barger**  
Fifth District

**Christina R. Ghaly, M.D.**  
Director

**Hal F. Yee, Jr., M.D., Ph.D.**  
Chief Medical Officer

**TO:** Supervisor Janice Hahn, Chair  
Supervisor Hilda L. Solis  
Supervisor Mark Ridley-Thomas  
Supervisor Sheila Kuehl  
Supervisor Kathryn Barger

**FROM:** Christina R. Ghaly, M.D.  
Director



**SUBJECT: ADVANCE NOTIFICATION OF INTENT TO  
NEGOTIATE A SUCCESSOR SOLE SOURCE  
AGREEMENT TO AGREEMENT NO. H-701585 WITH  
PHILIPS HEALTHCARE**

313 N. Figueroa Street, Suite 912  
Los Angeles, CA 90012

Tel: (213) 288-8101  
Fax: (213) 481-0503

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health care to Los Angeles County  
residents through direct services at  
DHS facilities and through  
collaboration with community and  
university partners.*

This is to provide the Board of Supervisors (Board) with advanced notification of the Department of Health Services' (DHS) intent to negotiate a successor agreement to the existing sole source agreement No. H-701585 (Agreement) with Philips Healthcare (Philips) to continue maintenance and repair services for various medical equipment. Board Policy No. 5.100 requires written notice of a department's intent to enter into sole source negotiations for a Board-approved agreement at least six (6) months prior to initiating sole source negotiations. The current Agreement expires on December 31, 2019.

**Background**

Philips provides maintenance and repair services for various types of medical equipment throughout DHS facilities and for the Department of Medical Examiner-Coroner (MEC). Philips currently maintains and services over 2,900 pieces of DHS medical equipment, including equipment for patient monitoring, radiology, imaging, cardiology, and two (2) X-ray machines for MEC.

DHS has standardized on Philips for patient monitors across the enterprise. The patient monitors are used throughout DHS facilities to help staff enhance patient care and improve clinical performances by identifying patients in need, supporting caregivers on the go, consolidating patient information, and providing ongoing support for staff. DHS has also made a significant investment in Philips radiology and imaging equipment such as X-ray, ultrasound, and position



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Each Supervisor  
February 6, 2019  
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emission tomography/computed tomography (PET/CT) scanners that are used in various DHS facilities to examine, diagnose, and assist with medical procedures. Philips assists facilities in managing medical equipment, schedules preventive maintenance and repair, and generates compliance reports required by The Joint Commission.

### Justification

Philips is the Original Equipment Manufacturer (OEM) and sole provider of maintenance services and parts for its proprietary equipment. Only Philips technicians are certified to provide necessary maintenance and repair services in accordance with OEM standards and to meet requirements by The Joint Commission, as Philips does not provide training to third party vendors.

The current Agreement has been amended a number of times and DHS believes it's prudent to prepare a successor Agreement to ensure easier contract administration. With a successor Agreement, DHS will be able to continue proper ongoing medical equipment maintenance and repair services for current and future pieces of Philips' medical equipment at its facilities to provide proper patient care, diagnosis, examination, and patient safety.

### Conclusion

Consistent with the Sole Source Board policy, I am informing the Board of my intention to proceed with a successor agreement with Philips. If no objection is received from the Board within two weeks, we will proceed with the negotiations for a successor agreement and return to the Board for approval.

If you have any questions or require additional information, please let me know, or your staff may contact Kathy Hanks, Director, Contracts and Grants Division, at (213) 288-7819.

CRG:al

c: Chief Executive Office  
County Counsel  
Executive Office, Board of Supervisors



## SOLE SOURCE CHECKLIST

Check (✓)	<b>JUSTIFICATION FOR SOLE SOURCE CONTRACTS</b> Identify applicable justification and provide documentation for each checked item.
	➤ Only one bona fide source (monopoly) for the service exists; performance and price competition are not available. Monopoly is an <i>“Exclusive control of the supply of any service in a given market. If more than one source in a given market exists, a monopoly does not exist.”</i>
	➤ Compliance with applicable statutory and/or regulatory provisions.
	➤ Compliance with State and/or federal programmatic requirements.
	➤ Services provided by other public or County-related entities.
	➤ Services are needed to address an emergent or related time-sensitive need.
	➤ The service provider(s) is required under the provisions of a grant or regulatory requirement.
	➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.
✓	<p>➤ Maintenance service agreements exist on equipment which must be serviced by the original equipment manufacturer or an authorized service representative.</p> <p><i>Philips North America LLC (Philips) is the sole provider of maintenance services and parts for its proprietary technology and firmware. Only Philips technicians are certified to provide necessary maintenance and repair services for proprietary technology in its equipment, and meeting requirements as specified by The Joint Commission. Philips does not provide training to third party vendors.</i></p>
	➤ It is more cost-effective to obtain services by exercising an option under an existing contract.
	➤ It is in the best economic interest of the County (e.g., significant costs to replace an existing system or infrastructure, administrative cost savings and excessive learning curve for a new service provider, etc.) In such cases, departments must demonstrate due diligence in qualifying the cost-savings or cost-avoidance associated with the best economic interest of the County.



\_\_\_\_\_  
Chief Executive Office

11/4/19

\_\_\_\_\_  
Date



**William S. Kehoe**  
CHIEF INFORMATION OFFICER

## Office of the CIO CIO Analysis

BOARD AGENDA DATE:

12/3/2019

## SUBJECT:

**APPROVAL OF A SOLE SOURCE AGREEMENT WITH PHILIPS NORTH AMERICA, LLC**

## CONTRACT TYPE:

New Contract     Sole Source     Amendment to Contract #: Successor to H-701585

## SUMMARY:

Description: Approval of a successor Sole Source Agreement (Agreement) with Philips Healthcare North America, LLC (Philips) for maintenance and repair services of medical equipment for the Department of Health Services (DHS) and Department of Medical Examiner-Coroner (ME-C).

DHS is requesting delegated authority to execute a successor Agreement with Philips for ten (10) years through December 31, 2029. This will allow for the continued provision of various medical equipment maintenance and repair services at DHS facilities and ME-C. The delegated authority also includes making changes to terms and conditions, the scope of maintenance, add or delete equipments as needed, as well as add/delete other departments. The authority requests an increase of the maximum County obligation under the Agreement by up to 40%.

Contract Amount: **\$52,266,232**

## FINANCIAL ANALYSIS:

**Contract costs: (12/31/2019 to 12/31/2029) for this successor Agreement**

Ongoing annual costs:

Maintenance & support..... \$ 52,266,232

**Sub-total Contract Costs: .....** \$ 52,266,232

Optional contingency total (approx. 40%).....\$ 20,906,493

**Total Agreement Cost (10-year).....** \$ 73,172,725

Notes:

**Ongoing Cost for current Philips Agreement H-701585**

**Total Contract cost (Current):**

Original Agreement \$ 16,073,804

Amendment 1 \$ 23,626,921

Amendment 2 \$ 10,783,971

Amendment 5 \$ 49,221,865

Amendment 6 \$ 2,453,213

**Total Cumulative Cost: \$102,159,774**

**Total projected cost: \$175,332,499**



## APPROVAL OF A SOLE SOURCE AGREEMENT WITH PHILIPS NORTH AMERICA

### RISKS:

The following areas of risk have been identified:

### Length of Contract:

The length of this proposed Agreement is 10 years. While there are potential benefits in terms of favorable pricing and terms, DHS, in the future, may explore short-term contracts due to the following reasons:


- Medical instrumentation is changing rapidly with the increased use of innovative technologies; this change cycle is much faster now than earlier, thereby outdating the equipment at hand and introducing risks in terms of accuracy of health outcomes. This is a business risk.
- IT refresh cycles are getting shorter; outdated PCs, operating systems and associated software are subject to a multitude of technical risks of which security risks are primary.
- It will allow exploring the leasing option for these medical devices, as applicable.

Therefore, short-term contracts with the option to renew can reduce these business and security risks considerably. It can also help avoid the need for delegated authority as high as 40% for contingencies.

### Medical Device Management Security Standards

DHS has several safeguards in place providing defense in-depth, which are in accordance with the County level policy. However, security risks have increased as the medical devices are getting connected to the internet, as well as with critical applications like Electronic Health Record systems. More connectivity to the external network/agencies for maintenance and support has further enhanced the security threats. While the agreement deals with general security provisions that address Operating Systems upgrades, patch management, anti-malware provisions, endpoint security management etc., medical devices are increasingly being the target of various intrusions. Therefore applicable standards and procedures to mitigate risks are essential. This necessitates DHS to develop a Medical Internet of Things (IOT) standards, which define at least a minimum level of security in accordance with County policy. The County Chief Information Officer will assist DHS in this endeavor, as needed.

PREPARED BY:

  
\_\_\_\_\_

SANMAY MUKHOPADHYAY, DEPUTY CHIEF INFORMATION OFFICER

11/19/19

DATE

APPROVED:

  
\_\_\_\_\_

WILLIAM S. KEHOE, COUNTY CHIEF INFORMATION OFFICER

11/19/19

DATE

**DEPARTMENT OF HEALTH SERVICES**



**AGREEMENT**

**BY AND BETWEEN**

**COUNTY OF LOS ANGELES**

**AND**

**PHILIPS NORTH AMERICA**

**FOR**

**EQUIPMENT MAINTENANCE AND REPAIR SERVICES**

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- J BUSINESS ASSOCIATE UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)
- K MEDICAL HEALTH SCREENING

**AGREEMENT BY AND BETWEEN**  
**COUNTY OF LOS ANGELES**  
**AND**  
**PHILIPS NORTH AMERICA**  
**FOR**  
**EQUIPMENT MAINTENANCE AND REPAIR SERVICES**

This Agreement, including Exhibits, is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the County of Los Angeles, hereinafter referred to as “County“, and Philips North America, hereinafter referred to as “Contractor”. Contractor is located at 22100 Bothel-Everett Highway, Bothel, Washington 98201.

**RECITALS**

WHEREAS, the County may contract with private businesses for Equipment Maintenance and Repair Services when certain requirements are met; and

WHEREAS, the Contractor is a private firm specializing in providing Equipment Maintenance and Repair Services; and

WHEREAS, pursuant to sections 1441 and 1445 of the California Health and Safety Code, County has established and operates, through its Department of Health Services (hereafter “DHS”), various County hospitals, comprehensive health centers, public health centers, and other health care facilities and programs (hereafter collectively referred to as “Facility(ies)"); and

WHEREAS, the County desires the services of the Contractor to provide preventive maintenance and repair services; and

WHEREAS, the County has determined that the services to be provided under this Agreement are of a technical nature, for which DHS is unable to recruit qualified personnel with the requisite training, knowledge and experience to perform such services; and

WHEREAS, the Contractor is authorized under the laws of the State of California to engage in the business of providing preventive maintenance and repair services and possesses the competence, expertise and personnel necessary to provide such services as described hereunder and consistent with the professional standard of care for these services; and

WHEREAS, this Agreement is authorized by provisions of section 1451 of the California Health and Safety Code and sections 26227 and 31000 of the California Government Code; and

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties agree to the following:

## **1.0 APPLICABLE DOCUMENTS**

Exhibits A, B, C, D, E, F, G, H, I, J, and K are attached to and form a part of this Agreement. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Agreement and the Exhibits, or among Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Agreement and then to the Exhibits according to the following priority.

- 1.1 EXHIBIT A - Statement of Work
- 1.2 EXHIBIT B - Pricing Schedule
- 1.3 EXHIBIT C - Intentionally Omitted
- 1.4 EXHIBIT D - Contractor's EEO Certification
- 1.5 EXHIBIT E - County's Administration
- 1.6 EXHIBIT F - Contractor's Administration
- 1.7 EXHIBIT G - Contractor Acknowledgement and Confidentiality Agreement
- 1.8 EXHIBIT H - Jury Service Ordinance
- 1.9 EXHIBIT I - Safely Surrendered Baby Law
- 1.10 EXHIBIT J - Business Associate Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- 1.11 EXHIBIT K - Medical Health Screening

This Agreement, including the Exhibits hereto, constitutes the complete and exclusive statement of understanding between the parties and supersedes all previous agreements, written and oral, and all communications between the parties relating to the subject matter of this Agreement. No change to this Agreement shall be valid unless prepared pursuant to Sub-paragraph 8.1 – Amendments and signed by both parties.

## 2.0 DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The terms and phrases listed below, with the initial letter capitalized where applicable, shall have the following meaning when used in the Agreement, unless otherwise apparent from the context in which they are used.

- 2.1 **Agreement:** This contract executed between County and Contractor setting forth the terms and conditions and requirements for provision by the Contractor of the services and other work specified herein, including Exhibit A – Statement of Work.
- 2.2 **Contractor:** The sole proprietor, partnership, limited liability company or corporation that has entered into this Agreement with the County to provide the services and other work specified herein, including Exhibit A – Statement of Work.
- 2.3 **Contractor’s Project Manager:** The individual designated by the Contractor to administer the Agreement operations after the Agreement award.
- 2.4 **Day(s):** Calendar day(s) unless otherwise specified.
- 2.5 **DHS:** County’s Department of Health Services.
- 2.6 **Director:** The Director of Health Services or authorized designee.
- 2.7 **Facility:** Any Medical Centers, together with associated Health Centers, Comprehensive Health Centers, Outpatient Centers, health clinics and administrative offices, within the Department of Health Services and other County departments, for which services are provided under the Agreement.
- 2.8 **Facility’s Project Director:** Person designated by the County with authority for the County on administrative matters relating to this Agreement that cannot be resolved by the Facility’s Project Manager.
- 2.9 **Facility’s Project Manager:** Person designated by Facility’s Project Director to manage the operations under this Agreement.
- 2.10 **Facility’s Project Monitor:** Person with responsibility to oversee the day to day activities of this Agreement and for inspections of any and all tasks, deliverables, goods, services and other work provided by the Contractor.



**2.11 Fiscal Year:** The twelve (12) month period beginning July 1st and ending the following June 30th.

**2.12 Statement of Work:** Terms and conditions of Exhibit A – Statement of Work.

### **3.0 WORK**

3.1 Pursuant to the provisions of this Agreement, the Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth herein.

3.2 If the Contractor provides any tasks, deliverables, goods, services, or other work, other than as specified in this Agreement, the same shall be deemed to be a gratuitous effort on the part of the Contractor, and the Contractor shall have no claim whatsoever against the County.

### **4.0 TERM OF AGREEMENT**

4.1 The term of this Agreement shall commence on the date first written above as authorized by the County's Board of Supervisors for ten (10) years until and through December 31, 2029, unless sooner terminated or extended, in whole or in part, as provided in this Agreement.

4.2 The County maintains databases that track/monitor Contractor performance history. Information entered into such databases may be used for a variety of purposes, including determining whether the County will exercise an Agreement term extension option.

4.3 The Contractor shall notify DHS when this Agreement is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, the Contractor shall send written notification to the DHS at the address herein provided in Exhibit E - County's Administration.

### **5.0 MAXIMUM AGREEMENT SUM, BILLING AND PAYMENT**

#### **5.1 Maximum Agreement Sum**

The "Maximum Agreement Sum" under the Agreement shall be the total monetary amount payable by the County to Contractor for providing all services and other work during the entire term of this Agreement. The Maximum Agreement Sum shall not exceed Fifty Two Million, Two Hundred Sixty Six Thousand, Two Hundred Thirty Two Dollars (\$52,266,232) for the entire term of the Agreement.

During the term of this Agreement, the Director, or authorized designee, may increase the Maximum Agreement Sum by up to forty percent (40%) for services and other work that may be requested or required by County, including for emergency, unforeseen or as-needed maintenance, repair and professional/support services, to add equipment coming off warranty, out-of-scope repairs, and to add Facilities and/or other County departments.

5.2 The Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the County's express prior written approval.

5.3 The Contractor shall maintain a system of record keeping that will allow the Contractor to determine when it has incurred seventy-five percent (75%) of the total Maximum Agreement Sum under this Agreement. Upon occurrence of this event, the Contractor shall send written notification to DHS at the address herein provided in Exhibit E – County's Administration.

**5.4 No Payment for Services Provided Following Expiration/Termination of Agreement**

The Contractor shall have no claim against the County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the Contractor after the expiration or other termination of this Agreement. Should the Contractor receive any such payment it shall immediately notify the County and shall immediately repay all such funds to the County. Payment by the County for services rendered after expiration/termination of this Agreement shall not constitute a waiver of the County's right to recover such payment from the Contractor. This provision shall survive the expiration or other termination of this Agreement.

**5.5 Invoices and Payments**

5.5.1 Invoice Submission

1. The Contractor shall invoice the County only for provided tasks, deliverables, goods, services, and other work specified in Exhibit A – Statement of Work and

elsewhere hereunder. The Contractor's invoices shall include the charges owed to the Contractor by the County under the terms of this Agreement. The Contractor shall invoice only for the tasks, deliverables, goods, services, and other work approved in writing by the County. If the County does not approve work in writing, no payment shall be due to the Contractor for that work.

2. The Contractor's invoices shall be submitted in arrears and priced in accordance with Exhibit B – Pricing Schedule.
3. The Contractor's invoices shall contain the information set forth in Exhibit A – Statement of Work describing the tasks, deliverables, goods, services, work hours and Facility and/or other work for which payment is claimed, with clear and reasonable details of the services for which claim is made, a description of services performed and the dates of such services, together with copies of the service report.
4. The Contractor shall submit the monthly invoices to the County by the 15<sup>th</sup> calendar day of the month following the month of service.
5. All invoices under this Agreement shall be separated by Facilities and shall be submitted in two (2) copies to the appropriate address specified in Exhibit A – Statement of Work, Attachment A – Facility Billing Address.

## **5.5.2 County Approval of Invoices**

All invoices submitted by the Contractor for payment must have the written approval of the Facility's Project Manager prior to any payment thereof. In no event shall the County be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld.

## **5.5.3 Payments**

1. Subject to the terms and conditions of this Agreement, upon receipt of a complete and correct invoice and upon approval by Facility's Project Director, or authorized designee, County will reimburse Contractor within thirty (30) calendar days following receipt of Contractor's

proper invoice. County will pay for all services which County considers complete and correct. Payment for improperly submitted portions of invoices will be included with the next payment following resolution of any issues.

2. Facility's Project Director shall evaluate all services and other work provided by Contractor. If, in the Facility's Project Director's determination, the invoiced work was not satisfactorily performed, the Facility's Project Director, or authorized designee, shall provide Contractor with a written assessment of the deficiencies. Contractor shall, within ten (10) working days of receipt of the deficiency notification, remedy the identified deficiencies, at no additional cost to County. This approval process shall be repeated until Facility's Project Director, or authorized designee, deems all work deficiencies to have been remedied. Unless and until Contractor remedies all identified deficiencies, County shall not have any obligation to pay Contractor for deficient work provided under this Agreement.

## **5.6 Default Method of Payment: Direct Deposit or Electronic Funds Transfer**

- 5.6.1 The County, at its sole discretion, has determined that the most efficient and secure default form of payment for goods and/or services provided under an agreement/contract with the County shall be Electronic Funds Transfer (EFT) or direct deposit, unless an alternative method of payment is deemed appropriate by the Auditor-Controller (A-C).
- 5.6.2 The Contractor shall submit a direct deposit authorization request via the website <https://directdeposit.lacounty.gov> with banking and vendor information, and any other information that the A-C determines is reasonably necessary to process the payment and comply with all accounting, record keeping, and tax reporting requirements.
- 5.6.3 Any provision of law, grant, or funding agreement requiring a specific form or method of payment other than EFT or direct deposit shall supersede this requirement with respect to those payments.
- 5.6.4 At any time during the duration of the Agreement, a Contractor may submit a written request for an exemption

to this requirement. Such request must be based on specific legal, business or operational needs and explain why the payment method designated by the A-C is not feasible and an alternative is necessary. The A-C, in consultation with the contracting department(s), shall decide whether to approve exemption requests.

## **6.0 ADMINISTRATION OF AGREEMENT – COUNTY**

The Director shall have the authority to administer this Agreement on behalf of the County. The Director retains professional and administrative responsibility for the services rendered under this Agreement. A listing of all County Administration referenced in the following Sub-paragraphs is designated in Exhibit E - County's Administration. The County will notify the Contractor in writing of any change in the names or addresses shown.

### **6.1 Facility's Project Director**

Responsibilities of the Facility's Project Director include:

- ensuring that the objectives of this Agreement are met; and
- providing direction to the Contractor in the areas relating to County policy, information requirements, and procedural requirements.

Unless specified otherwise, the Facility's Director shall also include a designee.

### **6.2 Facility's Project Manager**

6.2.1 The responsibilities of the Facility's Project Manager include:

- meeting with the Contractor's Project Manager on a regular basis; and
- inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of the Contractor.

6.2.2 The Facility's Project Manager is not authorized to make any changes in any of the terms and conditions of this Agreement and is not authorized to further obligate the County in any respect whatsoever.

### **6.3 Facility's Project Monitor**

The Facility's Project Monitor is responsible for overseeing the day-to-day administration of this Agreement. The Facility's Project Monitor reports to the Facility's Project Manager.



## **7.0 ADMINISTRATION OF AGREEMENT - CONTRACTOR**

### **7.1 Contractor's Project Manager**

- 7.1.1 The Contractor's Project Manager is designated in Exhibit F – Contractor's Administration. The Contractor shall notify the County in writing of any change in the name or address of the Contractor's Project Manager within five (5) business days of such change.
- 7.1.2 The Contractor's Project Manager shall be responsible for the Contractor's day-to-day activities as related to this Agreement and shall coordinate with Facility's Project Manager and Facility's Project Monitor on a regular basis.

### **7.2 Contractor's Authorized Official(s)**

- 7.2.1 The Contractor's Authorized Official(s) are designated in Exhibit F – Contractor's Administration. The Contractor shall promptly notify the County in writing of any change in the name(s) or address(es) of the Contractor's Authorized Official(s) within five (5) business days of such change.
- 7.2.2 The Contractor represents and warrants that all requirements of the Contractor have been fulfilled to provide actual authority to such officials to execute documents under this Agreement on behalf of the Contractor.

### **7.3 Approval of Contractor's Staff**

The County has the absolute right to approve or disapprove all of the Contractor's staff performing work hereunder and any proposed changes in the Contractor's staff, including, but not limited to, the Contractor's Project Manager.

### **7.4 Contractor's Staff Identification**

- 7.4.1 The Contractor shall provide, at the Contractor's expense, all staff providing services under this Agreement with a photo identification badge.
- 7.4.2 The Contractor is responsible to ensure that employees have obtained a County ID badge before they are assigned to work in a County Facility. The Contractor personnel may be asked to leave a County facility by a County representative if they do not have the proper County ID badge on their person.
- 7.4.3 The Contractor shall notify the County within one (1) business day when staff is terminated from working under this

Agreement. The Contractor shall retrieve and return an employee's County ID badge to the County on the next business day after the employee has terminated employment with the Contractor.

- 7.4.4 If the County requests the removal of the Contractor's staff, the Contractor shall retrieve and return an employee's County ID badge to the County on the next business day after the employee has been removed from working on the County's Agreement.

## **7.5 Background and Security Investigations**

- 7.5.1 At the discretion of the County, all Contractor staff performing work under this Agreement may be required to undergo and pass, to the satisfaction of the County, a background investigation as a condition of beginning and continuing to work under this Agreement. The County shall use its discretion in determining the method of background clearance to be used, which may include but is not limited to fingerprinting. The County shall perform the background check.
- 7.5.2 The County may request that the Contractor's staff be immediately removed from working on the County Agreement at any time during the term of this Agreement. The County will not provide to the Contractor nor to the Contractor's staff any information obtained through the County conducted background clearance.
- 7.5.3 The County may immediately, at the sole discretion of the County, deny or terminate Facility access to the Contractor's staff that does not pass such investigation(s) to the satisfaction of the County whose background or conduct is incompatible with County facility access.
- 7.5.4 Disqualification, if any, of the Contractor's staff, pursuant to this Sub-paragraph 7.5, shall not relieve the Contractor of its obligation to complete all work in accordance with the terms and conditions of this Agreement.

## **7.6 Confidentiality**

- 7.6.1 The Contractor shall maintain the confidentiality of all records and information, including, but not limited to, billings, the County records and patient records, in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality,

including, without limitation, County policies concerning information technology security and the protection of confidential records and information.

7.6.2 Furthermore, Contractor shall: (i) not use any such records or information for any purpose whatsoever other than carrying out the express terms of this Agreement; (ii) promptly transmit to County all requests for disclosure of any such records or information; (iii) not disclose, except as otherwise specifically permitted by this Agreement, any such records or information to any person or organization other than the County without County's prior written authorization that the information is releasable; and (iv) at the expiration or termination of this Agreement, return all such records and information to County or maintain such records and information in accordance with the written procedures that may be provided or made available to Contractor by County for this purpose.

7.6.3 The Contractor shall indemnify, defend, and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, administrative penalties and fines assessed including, without limitation, defense costs and legal, accounting and other expert, consulting, or professional fees, arising from, connected with, or related to any failure by the Contractor, its officers, employees, agents, or subcontractors, to comply with this Sub-paragraph 7.6, as determined by the County in its sole judgment. Any legal defense pursuant to the Contractor's indemnification obligations under this Sub-paragraph 7.6 shall be conducted by the Contractor and performed by counsel selected by the Contractor and approved by the County. Notwithstanding the preceding sentence, the County shall have the right to participate in any such defense at its sole cost and expense, except that in the event the Contractor fails to provide the County with a full and adequate defense, as determined by the County in its sole judgment, the County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from the Contractor for all such costs and expenses incurred by the County in doing so. The Contractor shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of the County without the County's prior written approval.

7.6.4 The Contractor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality and indemnification provisions of this Agreement.

7.6.5 The Contractor shall sign and adhere to the provisions of Exhibit G – Contractor Acknowledgement and Confidentiality Agreement on behalf of itself and all employees, subcontractors and other persons who may provide work under this Agreement.

## **7.7 Medical Health Screening**

If requested by the County, the Contractor shall ensure that all of its staff providing services and/or entering a County Facility, under this Agreement at the time of participation hereunder, have undergone and successfully passed a current physical health examination, consistent with current DHS policy and Exhibit K - Medical Health Screening. The cost of the Medical Health Screening shall be at the expense of the Contractor.

## **7.8 Staff Performance under the Influence**

The Contractor shall not knowingly permit any employee to perform services under this Agreement while under the influence of any alcoholic beverage, medication, narcotic, or other substance which might impair their physical or mental performance.

# **8.0 STANDARD TERMS AND CONDITIONS**

## **8.1 AMENDMENTS**

8.1.1 For any change which affects the scope of work, term, Maximum Agreement Sum, payments, or any term or condition included under this Agreement, an Amendment shall be prepared by the County and then executed by the Contractor and by the Board of Supervisors, or its authorized designee.

8.1.2 The County's Board of Supervisors or Chief Executive Officer or designee may require the addition and/or change of certain terms and conditions in the Agreement during the term of this Agreement. The County reserves the right to add and/or change such provisions as required by the County's Board of Supervisors, Chief Executive Officer or designee. To implement such changes, an Amendment to the Agreement shall be prepared by the County and then

executed by the Contractor and by the Board of Supervisors, or its authorized designee.

- 8.1.3 The Director, or authorized designee, may at his/her sole discretion, authorize extensions of time as defined in Paragraph 4.0 – Term of Agreement. The Contractor agrees that such extensions of time shall not change any other term or condition of this Agreement during the period of such extensions. To implement an extension of time, an Amendment to the Agreement shall be prepared by the County and then executed by the Contractor and by Board of Supervisors, or authorized designee.
- 8.1.4 The Director or authorized designee may require, at his/her sole discretion, the addition and/or change of certain terms and conditions in the Agreement to conform to changes in federal or state law or regulation, during the term of this Agreement. The County reserves the unilateral right to add and/or change such provisions as required by law or regulation, without the need for the Contractor's written consent, to preserve this Agreement's conformity and compliance to federal and state law or regulation. To implement such changes, an Amendment to the Agreement shall be prepared by the County and then executed by the Contractor and by the Director or authorized designee.
- 8.1.5 The County reserves the right to initiate Administrative Amendments or Change Notices for changes to the Agreement that do not materially affect the scope of work, term, or any other term or condition included in this Agreement. Such Administrative Amendments or Change Notices shall be prepared by the County and then signed/acknowledged by Contractor.

## **8.2 ASSIGNMENT AND DELEGATION/MERGERS OR ACQUISITIONS**

- 8.2.1 The Contractor shall notify the County of any pending acquisitions/mergers of its company unless otherwise legally prohibited from doing so. If the Contractor is restricted from legally notifying the County of pending acquisitions/mergers, then it should notify the County of the actual acquisitions/mergers as soon as the law allows and provide to the County the legal framework that restricted it from notifying the County prior to the actual acquisitions/mergers.
- 8.2.2 The Contractor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of the County, in its

discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this Sub-paragraph, the County consent shall require a written Amendment to the Agreement, which is formally approved and executed by the parties. Any payments by the County to any approved delegate or assignee on any claim under this Agreement shall be deductible, at the County's sole discretion, against the claims, which the Contractor may have against the County.

8.2.3 Shareholders, partners, members, or other equity holders of the Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of the Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Agreement, such disposition is an assignment requiring the prior written consent of the County in accordance with applicable provisions of this Agreement.

8.2.4 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without the County's express prior written approval, shall be a material breach of the Agreement which may result in the termination of this Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

### **8.3 AUTHORIZATION WARRANTY**

The Contractor represents and warrants that the person executing this Agreement for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition, and obligation of this Agreement and that all requirements of the Contractor have been fulfilled to provide such actual authority.

### **8.4 BUDGET REDUCTIONS**

In the event that the County's Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of the County employees

and imposes similar reductions with respect to the County contracts, the County reserves the right to reduce its payment obligation under this Agreement correspondingly for that fiscal year and any subsequent fiscal year during the term of this Agreement (including any extensions), and the services to be provided by the Contractor under this Agreement shall also be reduced correspondingly. The County's notice to the Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, the Contractor shall continue to provide all of the services set forth in this Agreement.

**8.5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS (2 C.F.R. PART 376)**

The Contractor hereby acknowledges that the County is prohibited from contracting with and making sub-awards to parties that are suspended, debarred, ineligible, or excluded or whose principals are suspended, debarred, ineligible, or excluded from securing federally funded contracts. By executing this Agreement, the Contractor certifies that neither it nor any of its owners, officers, partners, directors, other principals, employees, or independent contractors is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Further, by executing this Agreement, the Contractor certifies that, to its knowledge, none of its subcontractors, at any tier, or any owners, officers, partners, directors, other principals, employees, or independent contractors of any subcontractor is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. The Contractor shall immediately notify the County in writing, during the term of this Agreement, should it or any of the aforementioned parties either be suspended, debarred, ineligible, or excluded from securing federally funded contracts. The Contractor shall reimburse the County for all associated costs (repayment, fine and/or penalty) that may be incurred as a result of inappropriate claims submitted by or on behalf of one of their staff or vendors who was excluded or suspended regardless of the Contractor's prior knowledge of such exclusion or suspension. Failure of the Contractor to comply with this provision shall constitute a material breach of this Agreement upon which the County may immediately terminate or suspend this Agreement.

## **8.6 COMPLAINTS**

The Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

- 8.6.1 Within ten (10) business days of the effective date of the Agreement, the Contractor shall provide the County with the Contractor's policy for receiving, investigating and responding to user complaints.
- 8.6.2 The County will review the Contractor's policy and provide the Contractor with approval of said plan or with requested changes.
- 8.6.3 If the County requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the plan within five (5) business days for the County approval.
- 8.6.4 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the County for approval before implementation.
- 8.6.5 The Contractor shall preliminarily investigate all complaints and notify the Facility's Project Manager of the status of the investigation within five (5) business days of receiving the complaint.
- 8.6.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.
- 8.6.7 Copies of all written responses shall be sent to the Facility's Project Manager within three (3) business days of mailing to the complainant.

## **8.7 COMPLIANCE WITH APPLICABLE LAWS, RULES AND REGULATIONS**

- 8.7.1 In the performance of this Agreement, the Contractor shall comply with all current and applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, including, but not limited to standards of The Joint Commission, its National Patient Safety Goals, California Code of Regulations, Title 22, Division 5 regulations and all other applicable industry best practices standards. All provisions required thereby to be included in this Agreement are incorporated herein by reference.



8.7.2 The Contractor shall indemnify, defend, and hold harmless the County, its officers, employees, agents, and volunteers from and against any and all claims, demands, damages, liabilities, losses, administrative penalties and fines assessed, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by the Contractor, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by the County in its sole judgment.

**8.7.3 Facilities' Rules and Regulations**

During the time that the Contractor's agents, employees, or subcontractors are at a Facility, the Contractor and such persons shall be subject to the rules and regulations of that Facility. Facility's Administrator shall furnish a copy of rules and regulations to the Contractor pertaining to the Facility prior to the execution of this Agreement and, during the term of this Agreement, shall furnish the Contractor with any changes thereto as from time to time may be adopted. It is the responsibility of the Contractor to acquaint all persons who may provide services hereunder with such rules and regulations. The Contractor agrees to immediately and permanently withdraw any of its employees or subcontractors from the provision of services hereunder upon receipt of written notice from the Director that: (1) such employee or subcontractor has violated such rules or regulations, or (2) such employee's or subcontractor's actions while on County premises may adversely affect the delivery of health care services to County patients. The Director must submit with such notice a written statement of the facts supporting any such alleged violation or action.

**8.8 COMPLIANCE WITH CIVIL RIGHTS LAWS – ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION LAWS**

8.8.1 The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17); the Fair Employment & Housing Act, Government Code Section 12920-12922; and Affirmative Action in County Agreements, Chapter 4.32 of the Los Angeles County Code to the end that no person shall, on the grounds of

race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

- 8.8.2 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.
- 8.8.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 8.8.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation.
- 8.8.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religious creed, ancestry, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

- 8.8.6 The Contractor shall allow County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this Sub-paragraph 8.8 when so requested by the County.
- 8.8.7 If the County finds that any provisions of this Sub-paragraph 8.8 have been violated, such violation shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement. While the County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Agreement.
- 8.8.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Agreement, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Agreement.
- 8.8.9 The Contractor shall certify to, and comply with, the provisions of Exhibit D – Contractor's EEO Certification.

## **8.9 COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM**

### **8.9.1 Jury Service Program:**

This Agreement is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as Exhibit H – Jury Service Ordinance and incorporated by reference into and made a part of this Agreement.

### **8.9.2 Written Employee Jury Service Policy.**

1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the

Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five (5) days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this Sub-paragraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) the Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any subcontractor to perform services for the County under the Agreement, the subcontractor shall also be subject to the provisions of this Sub-paragraph. The provisions of this Sub-paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the Agreement.
3. If the Contractor is not required to comply with the Jury Service Program when this Agreement commences, the Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and the Contractor shall immediately notify the County if the Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if the Contractor no longer qualifies for an exception to the Jury Service Program. In either event, the Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the

Agreement and at its sole discretion, that the Contractor demonstrate, to the County's satisfaction that the Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that the Contractor continues to qualify for an exception to the Program.

4. The Contractor's violation of this Sub-paragraph of the Agreement may constitute a material breach of the Agreement. In the event of such material breach, the County may, in its sole discretion, terminate the Agreement and/or bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

## **8.10 CONFLICT OF INTEREST**

8.10.1 No County employee whose position with the County enables such employee to influence the award or administration of this Agreement or any competing contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.

8.10.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this Sub-paragraph shall be a material breach of this Agreement.

## **8.11 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST**

Should the Contractor require additional or replacement personnel after the effective date of this Agreement to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Agreement.

## **8.12 CONSIDERATION OF HIRING GAIN/GROW PARTICIPANTS**

8.12.1 Should the Contractor require additional or replacement personnel after the effective date of this Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services (DPSS) Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor. The Contractors shall report all job openings with job requirements to: [GAINGROW@dpss.lacounty.gov](mailto:GAINGROW@dpss.lacounty.gov) and [bservices@wdacs.lacounty.gov](mailto:bservices@wdacs.lacounty.gov) and DPSS will refer qualified GAIN/GROW job candidates.

8.12.2 In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

## **8.13 CONTRACTOR RESPONSIBILITY AND DEBARMENT**

### **8.13.1 Responsible Contractor**

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible Contractors.

### **8.13.2 Chapter 2.202 of the County Code**

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other contracts which indicates that the

Contractor is not responsible, the County may, in addition to other remedies provided in the contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five (5) years but may exceed five (5) years or be permanent if warranted by the circumstances, and terminate any or all existing contracts the Contractor may have with the County.

### **8.13.3 Non-responsible Contractor**

The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

### **8.13.4 Contractor Hearing Board**

1. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.
5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to



the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

#### **8.13.5 Subcontractors of Contractor**

These terms shall also apply to subcontractors of County Contractors.

#### **8.14 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW**

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. The Contractor, and its subcontractor(s), can access posters and other campaign material at [www.babysafela.org](http://www.babysafela.org).

#### **8.15 CONTRACTOR'S EXCLUSION FROM PARTICIPATING IN A FEDERALLY FUNDED PROGRAM**

8.15.1 The Contractor hereby warrants that neither it nor any of its Subcontractors' owners, officers, partners, directors, other principals, employees or independent contractors is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part, (which includes Medicare, Medi-Cal and Healthy Families) and that the Contractor will notify Director within ten (10) calendar days in writing of: (1) any event that would require the Contractor or any of the aforementioned parties' mandatory exclusion from participation in a Federally funded health care program; and (2) any exclusionary or suspension action taken by any agency of the Federal or State governments against any of the aforementioned parties' barring these parties from participating in a Federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

8.15.2 The Contractor shall indemnify and hold the County harmless against any and all loss or damage the County may suffer arising from any exclusion or suspension of the

Contractor or its Subcontractors' owners, officers, partners, directors, other principals, employees or independent contractors from such participation in a Federally funded health care program.

8.15.3 Failure by the Contractor to meet the requirements of this Sub-paragraph shall constitute a material breach of contract upon which the County may immediately terminate or suspend this Agreement.

#### **8.16 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

8.16.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

8.16.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Agreement to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

#### **8.17 CONTRACTOR'S WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

8.17.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals and businesses that benefit financially from the County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

8.17.2 Unless the Contractor qualifies for an exemption or exclusion, the Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this Agreement will maintain compliance, with Los Angeles Code Chapter 2.206.

## **8.18 COUNTY'S QUALITY ASSURANCE PLAN**

The County or its agent will monitor the Contractor's performance under this Agreement on not less than an annual basis. Such monitoring will include assessing the Contractor's compliance with all Agreement terms and conditions and performance standards. The Contractor deficiencies which the County determines are significant or continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to the Board and listed in the appropriate contractor performance database. The report to the Board will include improvement/corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate this Agreement or impose other penalties as specified in this Agreement.

## **8.19 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS**

8.19.1 The Contractor shall repair, or cause to be repaired, at its own cost, any and all damage other than normal wear and tear to County facilities, buildings, or grounds caused by the Contractor or employees or agents of the Contractor. Such repairs shall be made immediately after the Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

8.19.2 If the Contractor fails to make timely repairs, the County may make any necessary repairs. All costs incurred by the County, as determined by the County, for such repairs shall be repaid by the Contractor by cash payment upon demand.

8.19.3 The County reserves the unilateral right to make any repairs which Director determines, in his/her sole discretion, to be a public safety issue requiring immediate repair. The County will bill the Contractor for the cost of said repair or deduct said cost from any outstanding amounts owed by the County to the Contractor.

## **8.20 EMPLOYMENT ELIGIBILITY VERIFICATION**

8.20.1 The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the

employment of aliens and others and that all its employees performing work under this Agreement meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by law.

8.20.2 The Contractor shall indemnify, defend, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Agreement.

## **8.21 FACSIMILE REPRESENTATIONS**

The County and the Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments prepared pursuant to Sub-paragraph 8.1, and received via a facsimile communicative, as legally sufficient evidence that such original signatures have been affixed to Amendments to this Agreement, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

## **8.22 FAIR LABOR STANDARDS**

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the County and its agents, officers, employees and volunteers from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

### **8.23 FEDERAL ACCESS TO RECORDS**

If, and to the extent that, Section 1861(v)(1)(I) of the Social Security Act (42 U.S.C. Section 1395x(v)(1)(I)) is applicable, the Contractor agrees that for a period of four (4) years following the furnishing of services under this Agreement, the Contractor shall maintain and make available, upon written request, to the Secretary of the United States Department of Health and Human Services or the Controller General of the United States, or to any of their authorized representatives, the Agreements, books, documents and records of the Contractor which are necessary to verify the nature and extent of the costs of services provided hereunder. Furthermore, if the Contractor carries out any of the services provided hereunder through any subcontract with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period with a related organization (as that term is defined under Federal law), the Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents and records of the subcontractor.

### **8.24 CONTRACTOR PERFORMANCE DURING CIVIL UNREST OR DISASTER**

The Contractor recognizes that health care Facilities maintained by the County provide care essential to the residents of the communities they serve, and that these services are of particular importance at the time of a riot, insurrection, civil unrest, natural disaster, or similar event. Notwithstanding any other provision of this Agreement, full performance by the Contractor during any riot, insurrection, civil unrest, natural disaster or similar event is not excused if such performance remains physically possible. Failure to comply with this requirement shall be considered a material breach by the Contractor for which the County may immediately terminate this Agreement.

### **8.25 GOVERNING LAW, JURISDICTION, AND VENUE**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

### **8.26 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)**

The County is subject to the Administrative Simplification

requirements and prohibitions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules"). Under this Agreement, the Contractor provides services to the County and the Contractor creates, has access to, receives, maintains, or transmits Protected Health Information as defined in Exhibit J in order to provide those services. The County and the Contractor therefore agree to the terms of Exhibit J – Business Associate Under Health Insurance Portability and Accountability Act of 1996 (HIPAA).

## **8.27 INDEPENDENT CONTRACTOR STATUS**

- 8.27.1 This Agreement is by and between the County and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.
- 8.27.2 The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement all compensation and benefits. The County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.
- 8.27.3 The Contractor understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Agreement.
- 8.27.4 The Contractor shall adhere to the provisions stated in Sub-paragraph 7.6 - Confidentiality.

## **8.28 INDEMNIFICATION**

- 8.28.1 The Contractor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, agents and volunteers (“County Indemnitees”) from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from and/or relating to this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the County Indemnitees.
- 8.28.2 Any legal defense pursuant to the Contractor’s indemnification obligations under this Sub-paragraph 8.28 shall be conducted by the Contractor and performed by counsel selected by the Contractor and approved by the County. Notwithstanding the preceding sentence, the County shall have the right to participate in any such defense at its sole cost and expense. The Contractor shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of the County without the County’s prior written approval.

## **8.29 GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE**

Without limiting the Contractor's indemnification of the County, and in the performance of this Agreement and until all of its obligations pursuant to this Agreement have been met, the Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in this Sub-paragraph 8.29 and Sub-paragraph 8.30 – Insurance Coverage of this Agreement. These minimum insurance coverage terms, types and limits (the “Required Insurance”) also are in addition to and separate from any other Contractual obligation imposed upon the Contractor pursuant to this Agreement. The County in no way warrants that the Required Insurance is sufficient to protect the Contractor for liabilities which may arise from or relate to this Agreement.

### **8.29.1 Evidence of Coverage and Notice to County**

- Certificate(s) of insurance coverage (Certificate) satisfactory to the County, and a copy of an Additional Insured endorsement confirming the County and its Agents (defined below) has been given Insured status under the Contractor’s General Liability policy, shall be delivered to the County at

the e-mail address shown below and provided prior to commencing services under this Agreement.

- Renewal Certificates shall be provided to the County not less than 10 days prior to the Contractor's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Contractor and/or Sub-Contractor insurance policies at any time.
- Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Agreement by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Contractor identified as the contracting party in this Agreement. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, and list any County required endorsement forms.
- Neither the County's failure to obtain, nor the County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by the Contractor, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

Certificates and copies of any required endorsements shall be e-mailed to:

[cgcontractorinsurance@dhs.lacounty.gov](mailto:cgcontractorinsurance@dhs.lacounty.gov)

The Contractor also shall promptly report to the County any injury or property damage accident or incident, including any injury to a Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to the Contractor. The Contractor also shall promptly notify the County of any third party claim or suit filed against the Contractor or any of its Sub-Contractors which arises from or relates to this Agreement, and could



result in the filing of a claim or lawsuit against the Contractor and/or the County.

#### **8.29.2 Additional Insured Status and Scope of Coverage**

The County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers (collectively County and its Agents) shall be provided additional insured status under the Contractor's General Liability policy with respect to liability arising out of the Contractor's ongoing and completed operations performed on behalf of the County. The County and its Agents additional insured status shall apply with respect to liability and defense of suits arising out of the Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the County. The full policy limits and scope of protection also shall apply to the County and its Agents as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

#### **8.29.3 Cancellation of or Changes in Insurance**

The Contractor shall provide the County with, or the Contractor's insurance policies shall contain a provision that the County shall receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice shall be provided to the County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the Agreement, in the sole discretion of the County, upon which the County may suspend or terminate this Agreement.

#### **8.29.4 Failure to Maintain Insurance**

The Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Agreement, upon which the County immediately may withhold payments due to the Contractor, and/or suspend or terminate this Agreement. The County, at its sole discretion, may obtain damages from the Contractor

resulting from said breach. Alternatively, the County may purchase the Required Insurance, and without further notice to the Contractor, deduct the premium cost from sums due to the Contractor or pursue the Contractor reimbursement.

#### **8.29.5 Insurer Financial Ratings**

Coverage shall be placed with insurers acceptable to the County with A.M. Best ratings of not less than A:VII unless otherwise approved by the County.

#### **8.29.6 Contractor's Insurance Shall Be Primary**

The Contractor's insurance policies, with respect to any claims related to this Agreement, shall be primary with respect to all other sources of coverage available to the Contractor. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Contractor coverage.

#### **8.29.7 Waivers of Subrogation**

To the fullest extent permitted by law, the Contractor hereby waives its rights and its insurer(s)' rights of recovery against the County under all the Required Insurance for any loss arising from or relating to this Agreement. The Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

#### **8.29.8 Sub-Contractor Insurance Coverage Requirements**

The Contractor shall include all Sub-Contractors as insureds under the Contractor's own policies, or shall provide the County with each Sub-Contractor's separate evidence of insurance coverage. The Contractor shall be responsible for verifying each Sub-Contractor complies with the Required Insurance provisions herein, and shall require that each Sub-Contractor name the County and the Contractor as additional insureds on the Sub-Contractor's General Liability policy. The Contractor shall obtain the County's prior review and approval of any Sub-Contractor request for modification of the Required Insurance.

### **8.29.9 Deductibles and Self-Insured Retentions (SIRs)**

The Contractor's policies shall not obligate the County to pay any portion of any Contractor deductible or SIR. The County retains the right to require the Contractor to reduce or eliminate policy deductibles and SIRs as respects the County, or to provide a bond guaranteeing the Contractor's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

### **8.29.10 Claims Made Coverage**

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the effective date of this Agreement. The Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following Agreement expiration, termination or cancellation.

### **8.29.11 Application of Excess Liability Coverage**

The Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

### **8.29.12 Separation of Insureds**

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

### **8.29.13 Alternative Risk Financing Programs**

The County reserves the right to review, and then approve, the Contractor use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. The County and its Agents shall be designated as an Additional Covered Party under any approved program.

### **8.29.14 County Review and Approval of Insurance Requirements**

The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon the County's determination of changes in risk exposures.

## **8.30 INSURANCE COVERAGE**

**8.30.1 Commercial General Liability** insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming the County and its Agents as an additional insured, with limits of not less than:

General Aggregate: \$2 million

Products/Completed Operations Aggregate: \$1 million

Personal and Advertising Injury: \$1 million

Each Occurrence: \$1 million

**8.30.2 Automobile Liability** insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of the Contractor's use of autos pursuant to this Agreement, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

**8.30.3 Workers Compensation and Employers' Liability** insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If the Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that the County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to the Contractor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

#### **8.30.4 Unique Insurance Coverage**

- **Professional Liability/Errors and Omissions**

Insurance covering the Contractor's liability arising from or related to this Agreement, with limits of not less than \$2 million per claim and \$2 million aggregate. Further, the Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Agreement's expiration, termination or cancellation.

- **Technology Errors & Omissions Insurance**

Insurance for liabilities arising from errors, omissions, or negligent acts in rendering or failing to render computer or information technology services and technology products. Coverage for violation of software copyright should be included. Technology services should at a minimum include (1) systems analysis; (2) systems programming; (3) data processing; (4) systems integration; (5) outsourcing including outsourcing development and design; (6) systems design, consulting, development and modification; (7) training services relating to computer software or hardware; (8) management, repair and maintenance of computer products, networks and systems; (9) marketing, selling, servicing, distributing, installing and maintaining computer hardware or software; (10) data entry, modification, verification, maintenance, storage, retrieval or preparation of data output, and any other services provided by the vendor with limits of not less than \$10 million.

- **Privacy/Network Security (Cyber) Liability**

Insurance coverage providing protection against liability for (1) privacy breaches [liability arising from the loss or disclosure of confidential information no matter how it occurs]; (2) system breach; (3) denial or loss of service; (4) introduction, implantation, or spread of malicious software code; (5) unauthorized access to or use of computer systems with limits of not less than \$10 million. No exclusion/restriction for unencrypted portable devices/media may be on the policy.

**8.31 LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS AND CERTIFICATES**

The Contractor shall obtain and maintain in effect during the term of this Agreement, all valid licenses, permits, registrations, accreditations, and certificates required by law which are applicable to its performance of this Agreement, and shall ensure that all of its officers, employees, and agents who perform services hereunder obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations, accreditations, and certificates required by law which are applicable to their performance of services hereunder. All such licenses, permits, registrations, accreditations, and certifications relating to services hereunder shall be made available to the County upon request.

**8.32 INTENTIONALLY OMITTED**

**8.33 INTENTIONALLY OMITTED**

**8.34 NON EXCLUSIVITY**

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Agreement shall not restrict the Department of Health Services from acquiring similar, equal or like goods and/or services from other entities or sources.

**8.35 NOTICE OF DELAYS**

Except as otherwise provided under this Agreement, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

**8.36 NOTICE OF DISPUTES**

The Contractor shall bring to the attention of the Facility's Project Manager and/or Facility's Project Director any dispute between the County and the Contractor regarding the performance of services as stated in this Agreement. If the Facility's Project Manager or Facility's Project Director is not able to resolve the dispute, the Director or authorized designee shall resolve it.

**8.37 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT**

The Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for

the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

### **8.38 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW**

The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit I of this Agreement and is also available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.

### **8.39 NOTICES**

All notices or demands required or permitted to be given or made under this Agreement shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in Exhibits E - County's Administration and F - Contractor's Administration. Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party.

Notwithstanding the foregoing, in addition, and in lieu of written notification, the Director, or designee, shall have the authority to issue any notice to Contractor electronically via e-mail at the designated email address as identified in Exhibit F – Contractor's Administration. This includes all notices or demands required or permitted by the County under this Agreement.

### **8.40 PROHIBITION AGAINST INDUCEMENT OR PERSUASION**

Notwithstanding the above, the Contractor and the County agree that, during the term of this Agreement and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

### **8.41 PUBLIC RECORDS ACT**

8.41.1 Any documents submitted by the Contractor; all information obtained in connection with the County's right to audit and inspect the Contractor's documents, books, and accounting records pursuant to Sub-paragraph 8.43 – Record Retention

and Inspection/Audit Settlement of this Agreement; as well as any documents that may have been submitted in response to a solicitation process for this Agreement, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked “trade secret”, “confidential”, or “proprietary”. The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

- 8.41.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked “trade secret”, “confidential”, or “proprietary”, the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney’s fees, in an action or liability arising under the Public Records Act.

## **8.42 PUBLICITY**

- 8.42.1 The Contractor shall not disclose any details in connection with this Agreement to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Contractor’s need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under this Agreement within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; and
- During the term of this Agreement, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the Director or authorized designee. The County shall not unreasonably withhold written consent.

- 8.42.2 The Contractor may, without the prior written consent of the County, indicate in its proposals and sales materials that it has been awarded this Agreement with the County



of Los Angeles, provided that the requirements of this Sub-paragraph 8.42 shall apply.

#### **8.43 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT**

- 8.43.1 The Contractor shall maintain, and provide upon request by the County, accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Agreement.
- 8.43.2 The Contractor agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Agreement. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the County during the term of this Agreement and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.
- 8.43.3 In the event that an audit of the Contractor is conducted specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, including audits conducted by the Medicare and Medi-Cal programs, or both, then the Contractor shall file a copy of each such audit report, including Service Organization Controls (SOC1) Reports, with the County's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Agreement. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

- 8.43.4 Failure on the part of the Contractor to comply with any of the provisions of this Sub-paragraph 8.43 shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement.
- 8.43.5 If, at any time during the term of this Agreement or within five (5) years after the expiration or termination of this Agreement, representatives of the County conduct an audit of the Contractor regarding the work performed under this Agreement, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Contractor, then the difference shall be either: a) repaid by the Contractor to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County, whether under this Agreement or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Contractor, then the difference shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation for this Agreement exceed the funds appropriated by the County for the purpose of this Agreement.

#### **8.44 RECYCLED BOND PAPER**

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Agreement.

#### **8.45 RESTRICTIONS ON LOBBYING**

If any Federal funds are to be used to pay for the Contractor's services under this Agreement, the Contractor shall fully comply with all certification and disclosure requirements prescribed by Section 319 of Public Law 101-121 (31 United States Code Section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds provided under this Agreement also fully complies with all such certification and disclosure requirements.

#### **8.46 SUBCONTRACTING**

8.46.1 The requirements of this Agreement may not be subcontracted by the Contractor **without the advance written approval of the County**. Any attempt by the Contractor to subcontract without the prior consent of the

County may be deemed a material breach of this Agreement.

- 8.46.2 If the Contractor desires to subcontract, the Contractor shall provide the following information promptly at the County's request:
- A description of the work to be performed by the subcontractor;
  - A draft copy of the proposed subcontract; and
  - Other pertinent information and/or certifications requested by the County.
- 8.46.3 The Contractor shall indemnify and hold the County harmless with respect to the activities of each and every subcontractor in the same manner and to the same degree as if such subcontractor(s) were the Contractor employees.
- 8.46.4 The Contractor shall remain fully responsible for all performances required of it under this Agreement, including those that the Contractor has determined to subcontract, notwithstanding the County's approval of the Contractor's proposed subcontract.
- 8.46.5 The County's consent to subcontract shall not waive the County's right to prior and continuing approval of any and all personnel, including subcontractor employees, providing services under this Agreement. The Contractor is responsible to notify its subcontractors of this County right.
- 8.46.6 The Director or authorized designee is authorized to act for and on behalf of the County with respect to approval of any subcontract and subcontractor employees. After approval of the subcontract by the County, the Contractor shall forward a fully executed subcontract to the County for its files.
- 8.46.7 The Contractor shall be solely liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the County's consent to subcontract.
- 8.46.8 The Contractor shall obtain certificates of insurance, which establish that the subcontractor maintains all the programs of insurance required by the County from each approved

subcontractor. The Contractor shall ensure delivery of all such documents to the e-mail address shown below:

[cgcontractorinsurance@dhs.lacounty.gov](mailto:cgcontractorinsurance@dhs.lacounty.gov)

before any subcontractor employee may perform any work hereunder.

#### **8.47 SURVIVAL**

In addition to any provisions of this Agreement which specifically state that they will survive the termination or expiration of this Agreement and any rights and obligations under this Agreement which by their nature should survive, the following Sub-paragraphs shall survive any termination or expiration of this Agreement:

Sub-paragraph 5.4 (No Payment for Services Provided Following Expiration/Termination of Agreement)

Sub-paragraph 7.6 (Confidentiality)

Sub-paragraph 8.7 (Compliance with Applicable Laws, Rules and Regulations)

Sub-paragraph 8.25 (Governing Law, Jurisdiction, and Venue)

Sub-paragraph 8.28 (Indemnification)

Sub-paragraph 8.29 (General Provisions for all Insurance Coverage)

Sub-paragraph 8.30 (Insurance Coverage)

Sub-paragraph 8.43 (Record Retention and Inspection/Audit Settlement)

Sub-paragraph 8.47 (Survival)

Exhibit J – Business Associate Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA)

#### **8.48 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Failure of the Contractor to maintain compliance with the requirements set forth in Sub-paragraph 8.16 – Contractor's Warranty of Adherence to County's Child Support Compliance

Program, shall constitute default under this Agreement. Without limiting the rights and remedies available to the County under any other provision of this Agreement, failure of the Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the County may terminate this Agreement pursuant to Sub-paragraph 8.51 – Termination for Default and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

#### **8.49 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

Failure of the Contractor to maintain compliance with the requirements set forth in Sub-paragraph 8.17 – Contractor's Warranty of Compliance with County's Defaulted Property Tax Reduction Program shall constitute default under this Agreement. Without limiting the rights and remedies available to the County under any other provision of this Agreement, failure of the Contractor to cure such default within ten (10) days of notice shall be grounds upon which the County may terminate this Agreement and/or pursue debarment of the Contractor, pursuant to County Code Chapter 2.206.

#### **8.50 TERMINATION FOR CONVENIENCE**

8.50.1 This Agreement may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent.

8.50.2 After receipt of a notice of termination and except as otherwise directed by the County, the Contractor shall:

- Stop work under this Agreement on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.50.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Agreement shall be maintained by the

Contractor in accordance with Sub-paragraph 8.43 – Record Retention and Inspection/Audit Settlement.

## **8.51 TERMINATION FOR DEFAULT**

8.51.1 The County may, by written notice to the Contractor, terminate the whole or any part of this Agreement, if, in the judgment of the Director or authorized designee:

- Contractor has materially breached this Agreement; or
- Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Agreement; or
- Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Agreement, or of any obligations of this Agreement and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

8.51.2 In the event that the County terminates this Agreement in whole or in part as provided in Sub-paragraph 8.51.1, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services. The Contractor shall continue the performance of this Agreement to the extent not terminated under the provisions of this Sub-paragraph.

8.51.3 Except with respect to defaults of any subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in Sub-paragraph 8.51.2 if its failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or Contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the

failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this Sub-paragraph, the term "subcontractor(s)" means subcontractor(s) at any tier.

- 8.51.4 If, after the County has given notice of termination under the provisions of this Sub-paragraph 8.51, it is determined by the County that the Contractor was not in default under the provisions of this Sub-paragraph 8.51 or that the default was excusable under the provisions of Sub-paragraph 8.51.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Sub-paragraph 8.50 – Termination for Convenience.
- 8.51.5 The rights and remedies of the County provided in this Sub-paragraph 8.51 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

## **8.52 TERMINATION FOR IMPROPER CONSIDERATION**

- 8.52.1 The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, amendment, or extension of this Agreement or the making of any determinations with respect to the Contractor's performance pursuant to this Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.
- 8.52.2 The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Fraud Hotline at (800) 544-6861 or <http://fraud.lacounty.gov>.

8.52.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

### **8.53 TERMINATION FOR INSOLVENCY**

8.53.1 The County may terminate this Agreement forthwith in the event of the occurrence of any of the following:

- Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;
- The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Contractor; or
- The execution by the Contractor of a general assignment for the benefit of creditors.

8.53.2 The rights and remedies of the County provided in this Sub-paragraph 8.53 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

### **8.54 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE**

The Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Contractor or any County Lobbyist or County Lobbying firm retained by the Contractor to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Agreement, upon which the County may in its sole discretion, immediately terminate or suspend this Agreement.



#### **8.55 TERMINATION FOR NON-APPROPRIATION OF FUNDS**

Notwithstanding any other provision of this Agreement, the County shall not be obligated for the Contractor's performance hereunder or by any provision of this Agreement during any of the County's future fiscal years unless and until the County's Board of Supervisors appropriates funds for this Agreement in the County's Budget for each such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated. The County shall notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.

#### **8.56 TIME OFF FOR VOTING**

The Contractor shall notify its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the time off for voting law (Elections Code Section 14000). Not less than 10 days before every statewide election, every Contractor and subcontractors shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of Section 14000.

#### **8.57 UNLAWFUL SOLICITATION**

The Contractor shall inform all of its officers and employees performing services hereunder of the provisions of Article 9 of Chapter 4 of Division 3 (commencing with section 6150) of Business and Professions Code of the State of California (i.e. State Bar Act provisions regarding unlawful solicitation as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to ensure that there is no violation of said provisions by its officers and employees. The Contractor agrees that if a patient requests assistance in obtaining the services of any attorney, it will refer the patient to the attorney referral service of all those bar associations within Los Angeles County that have such a service.

#### **8.58 VALIDITY**

If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

## **8.59 WAIVER**

No waiver by the County of any breach of any provision of this Agreement shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this Sub-paragraph 8.59 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

## **8.60 WARRANTY AGAINST CONTINGENT FEES**

8.60.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

8.60.2 For breach of this warranty, the County shall have the right to terminate this Agreement and, at its sole discretion, deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

## **8.61 COMPLIANCE WITH COUNTY'S ZERO TOLERANCE POLICY ON HUMAN TRAFFICKING**

8.61.1 The Contractor acknowledges that the County has established a Zero Tolerance Policy on Human Trafficking prohibiting Contractors from engaging in human trafficking.

8.61.2 If a Contractor or member of the Contractor's staff is convicted of a human trafficking offense, the County shall require that the Contractor or member of the Contractor's staff be removed immediately from performing services under this Agreement. The County will not be under any obligation to disclose confidential information regarding the offenses other than those required by law.

8.61.3 Disqualification of any member of the Contractor's staff pursuant to this Sub-paragraph shall not relieve the Contractor of its obligation to complete all work in accordance with the terms and conditions of this Agreement.

## **8.62 COMPLIANCE WITH FAIR CHANCE EMPLOYMENT PRACTICES**

Contractor shall comply with fair chance employment hiring practices set forth in California Government Code Section 12952, Employment Discrimination: Conviction History. Contractor's violation of this paragraph of the Agreement may constitute a material breach of the Agreement. In the event of such material breach, the County may, in its sole discretion, terminate the Agreement.

## **8.63 COMPLIANCE WITH THE COUNTY POLICY OF EQUITY**

The Contractor acknowledges that the County takes its commitment to preserving the dignity and professionalism of the workplace very seriously, as set forth in the County Policy of Equity (CPOE) (<https://ceop.lacounty.gov/>). The Contractor further acknowledges that the County strives to provide a workplace free from discrimination, harassment, retaliation and inappropriate conduct based on a protected characteristic, and which may violate the CPOE. The Contractor, including its employees and subcontractors, acknowledges and certifies receipt and understanding of the CPOE. Failure of the Contractor, its employees or its subcontractors to uphold the County's expectations of a workplace free from harassment and discrimination, including inappropriate conduct based on a protected characteristic, may subject the Contractor to termination of contractual agreements as well as civil liability.

## **9.0 UNIQUE TERMS AND CONDITIONS**

### **9.1 NO INTENT TO CREATE A THIRD PARTY BENEFICIARY CONTRACT**

Notwithstanding any other provision of this Agreement, the parties do not in any way intend that any person shall acquire any rights as a third party beneficiary of this Agreement.

### **9.2 PROPRIETARY RIGHTS**

#### **9.2.1 County Materials**

The County shall be the sole owner of all right, title and interest, including copyright, in and to all software, plans, diagrams, facilities, and tools (hereafter "materials") which are originated or created through the Contractor's work pursuant to this Agreement. The Contractor, for valuable consideration herein provided, shall execute all documents necessary to assign and transfer to, and vest in the County

all of the Contractor's right, title and interest in and to such original materials, including any copyright, patent and trade secret rights which arise pursuant to the Contractor's work under this Agreement.

During the term of this Agreement and for five (5) years thereafter, the Contractor shall maintain and provide security for all of the Contractor's working papers prepared under this Agreement. The County shall have the right to inspect, copy and use at any time during and subsequent to the term of this Agreement, any and all such working papers and all information contained therein.

### **9.2.2 Contractor Materials**

Any and all materials, software and tools which are developed or were originally acquired by the Contractor outside the scope of this Agreement, which the Contractor desires to use hereunder, and which the Contractor considers to be proprietary or confidential, must be specifically identified by the Contractor to the Facility's Project Manager as proprietary or confidential and shall be plainly and prominently marked by the Contractor as "Propriety" or "Confidential" on each appropriate page of any document containing such material.

The County will use reasonable means to ensure that the Contractor's proprietary and/or confidential items or information are safeguarded and held in confidence. The County agrees not to reproduce, distribute or disclose to non-County entities any such proprietary and/or confidential items or information without the prior written consent of the Contractor, except that the County may distribute or disclose such proprietary and/or confidential items or information to its agents or other third parties providing services on behalf of the County.

Notwithstanding any other provision of this Agreement, the County will not be obligated to the Contractor in any way under this Sub-paragraph 9.2.2 for any of the Contractor's proprietary and/or confidential items or information which are not plainly and prominently marked with restrictive legends as required herein or for any disclosure which the County is required to make under any state or federal law or order of court.

### **9.2.3 License**

Contractor hereby provides to County an irrevocable, non-exclusive license to any software or firmware that may be included in the work provided by Contractor pursuant to the Agreement, including product of any services, Medical Equipment or any parts or components thereof, together with all related Documentation.

### **9.2.4 Survival**

All the rights and obligations of this Sub-paragraph 9.2 shall survive the expiration or termination of this Agreement.

## **9.3 INTELLECTUAL PROPERTY WARRANTY AND INDEMNIFICATION**

9.3.1 Contractor represents and warrants: (i) that Contractor has the full power and authority to grant the license, ownership and all other rights granted by this Agreement to County; (ii) that no consent of any other person or entity is required by Contractor to grant such rights other than consents that have been obtained and are in effect; (iii) that County is entitled to use Contractor's work provided under the Agreement, including all equipment and all software residing thereon, without interruption, subject only to County's obligation to make the required payments under this Agreement; (iv) that this Agreement and Contractor's work are neither subject to any liens, encumbrances, or pledges nor subordinate to any right or claim of any third party, including Contractor's creditors; (v) that during the term of this Agreement, Contractor shall not subordinate this Agreement or any of its rights hereunder to any third party without the prior written consent of County, and without providing in such subordination instrument for non-disturbance of County's use of Contractor's work (or any part thereof) in accordance with this Agreement; and (vi) that neither the performance of this Agreement by Contractor, nor the license to or ownership by, and use by, County of Contractor's work, including the equipment and software, in accordance with this Agreement will in any way violate any non-disclosure agreement, nor constitute any infringement or other violation of any copyright, trade secret, trademark, service mark, patent, invention, proprietary information or other rights of any third party.

9.3.2 Notwithstanding and in addition to the provisions of Sub-paragraph 8.28 – Indemnification, the Contractor shall indemnify, hold harmless and defend the County from and

against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to the operation and utilization of the Contractor's work under this Agreement. The County shall inform the Contractor as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure, and shall support the Contractor's defense and settlement thereof.

9.3.3 In the event any equipment, part thereof, or software product becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that the County's continued use of such item is formally restrained, enjoined, or subjected to a risk of damages, the Contractor, at its sole expense, and providing that the County's continued use of Contractor's work, including the equipment and the software, is not materially impeded, shall do one or any of the following:

- Procure for the County all rights to continued use of the questioned equipment, part or software product; or
- Replace the questioned equipment, part or software product with a non-questioned item; or
- Modify the questioned equipment, part, or software so that it is free of claims.

9.3.4 The Contractor shall have no liability if the alleged infringement or unauthorized disclosure is based upon a use of the questioned product, either alone or in combination with other items not supplied by the Contractor, in a manner for which the questioned product was not designed nor intended.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be executed by the County's Director of Health Services and Contractor has caused this Agreement to be executed in its behalf by its duly authorized officer, the day, month, and year first above written.

COUNTY OF LOS ANGELES

By \_\_\_\_\_ for  
Christina R. Ghaly, M.D.  
Director of Health Services

CONTRACTOR

\_\_\_\_\_

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

APPROVED AS TO FORM:  
MARY C. WICKHAM  
County Counsel

By \_\_\_\_\_  
VICTORIA MANSOURIAN  
Principal County Counsel

**STATEMENT OF WORK  
FOR  
EQUIPMENT MAINTENANCE  
AND  
REPAIR SERVICES**



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## STATEMENT OF WORK

### 1.0 SCOPE OF WORK

Contractor shall provide routine maintenance and as-needed repair services as described in this Exhibit A – Statement of Work for Medical Equipment listed in Exhibit B - Pricing Schedule to the Agreement, which is located at the Facilities.

### 2.0 DEFINITIONS

As used in this Statement of Work and elsewhere in the Agreement, the terms and phrases in this Paragraph 2.0 shall have the particular meanings as specified below.

- 2.1 “Emergency” – shall mean a Medical Equipment failure causing a complete or partial operational shutdown of Facility’s capacity to utilize such Medical Equipment, for which failure or no immediate temporary alternative is available.
- 2.2 “Medical Equipment” – shall mean an instrument, apparatus, machine, or other similar or related article, including all operating software, components, parts, accessories, replacements, and/or upgrades, which is intended for the diagnosis, care treatment, or monitoring of a Facility patient.
- 2.3 “Preventive Maintenance Services” – shall mean services performed by Contractor to preserve the intended proper function and operational state of the Medical Equipment covered under the terms of this Agreement.
- 2.4 “Repair Services” – shall mean the services involving restoration, correction or other repair of Medical Equipment to its intended proper function on an as-needed basis, as may be requested or required by the Facility in response to the failure or malfunctioning of such Medical Equipment.

### 3.0 CONTRACTOR PERSONNEL

- 3.1 Contractor shall designate an administrator to lead and coordinate Contractor’s day-to-day provision of maintenance and repair services hereunder. Upon request by the Facility’s Project Director, or authorized designee, Contractor’s administrator shall be available at all reasonable times (Monday through Friday, 8:00 a.m. to 5:00 p.m.) to explain the services it is providing to County hereunder, and upon request, provide written reports to Facility receiving services herein.

Contractor shall notify County, in writing, of the name and contact information of Contractor’s designated administrator within ten (10) calendar days prior to the effective date of this Agreement.

- 3.2 Contractor's administrator shall be responsible for determining daily work duties, staffing levels, scheduling, and staffing hours needed to properly provide maintenance and repair services hereunder, which shall be prepared in writing and submitted to the Facility's Project Director, or authorized designee for approval, before any such services are provided. Contractor shall have available and shall provide upon request by the Facility's Project Director, or authorized designee, the names of Contractor's staff (including any subcontractor staff), their titles, professional degrees (if any) salary history, and experience in providing services hereunder.
- 3.3 Contractor's administrator shall institute and maintain appropriate supervision of all persons providing services pursuant to this Agreement. Further, unless directed pursuant to this Agreement by Facility's Project Director, or authorized designee, to do otherwise, Contractor shall work independently on designated assignments in accordance with the Statement of Work duties contained hereunder.
- 3.4 Contractor assumes the sole responsibility for the timely completion of all activities assigned or to be performed hereunder.

**4.0 COUNTY PERSONNEL**

County does not anticipate assigning County personnel or employees to assist Contractor on a full-time or even a part-time basis regarding services to be provided by Contractor pursuant to this Agreement. However, County personnel will be made available to Contractor at the discretion of the Director to provide necessary input and assistance in order to answer questions and provide necessary liaisons between Contractor and County. In any event, County further will provide Contractor with an appropriate contact person at each work site location to be served under this Agreement.

**5.0 SPECIFIC CONTRACTOR RESPONSIBILITIES**

Contractor shall provide the following services for all Medical Equipment listed in Exhibit B - Pricing Schedule:

5.1 Comprehensive Medical Equipment Inventory:

- 5.1.1 Contractor shall, in association with appropriate Facility staff, develop and maintain a comprehensive equipment inventory listing all Medical Equipment covered under this Agreement, including a separate listing for all other related Medical Equipment serviced by Contractor under warranty, purchase order, or other County Agreement.

Contractor shall conduct an annual physical on-site equipment inventory check with the Facility to reconcile all Medical Equipment inventory throughout the Facility one year (1) after the Agreement's effective date and once every fiscal year thereafter, as requested by Facility.

5.1.2 Contractor shall submit such listings to the DHS Contracts and Grants Division within ninety (90) calendar days from the effective date of this Agreement and provide same with quarterly updates thereafter.

5.1.3 The equipment inventory lists shall include the quantity, description, model number, serial number, site number, and other unique identifier, and specific location (e.g. Facility, department, and room number).

The equipment list for Medical Equipment covered under a service warranty, purchase order, or other County agreement shall also include the document number and expiration date of such service warranty, purchase order, or other County agreement, including the Los Angeles County Capital Asset Leasing and/or Los Angeles County number, as applicable. Contractor shall notify County six (6) months before the expiration date of such service warranty.

5.2 Routine Preventive Equipment Maintenance Services:

Contractor shall provide Preventive Maintenance Services for all Medical Equipment covered under this Agreement, at the rates set forth in Exhibit B - Pricing Schedule. Unless otherwise indicated in Exhibit B - Pricing Schedule:

5.2.1 Contractor shall perform routine Preventive Maintenance Services on Monday through Friday between 8:00 a.m. and 5:00 p.m., excluding County holidays, on days and times mutually agreed upon by Facility and Contractor.

5.2.2 Contractor shall provide Maintenance Services at regularly scheduled intervals in accordance with the Original Equipment Manufacturer's (hereafter "OEM") recommendations for the frequency of such services and shall comply with all appropriate licensing and accrediting agencies' [e.g., The Joint Commission, Occupational Safety and Health Administration (hereafter "OSHA"), and Title 22] standards.

5.2.3 Preventive Maintenance Services shall include, but not be limited to, inspection, cleaning and lubrication, safety inspection, functional tests and adjustments or calibrations necessary to facilitate proper functioning of the Medical Equipment, and replacement of worn, defective or broken parts with new parts specifically designed for the Medical Equipment.

5.2.4 Preventive Maintenance Services shall exclude services required for overhaul, upgrades, modification, refurbishing, installation, or relocation of Medical Equipment, unless Contractor elects to provide such services, at no additional cost to County as part of Preventive

Maintenance Services, in order to prevent Medical Equipment malfunction or other damage.

5.2.5 On each July 1<sup>st</sup> following the effective date of the Agreement term and for the duration of its term, Contractor shall provide each Facility with an advance Preventive Maintenance Services schedule for all Medical Equipment covered under this Agreement. Contractor shall include, as part of such schedule, the Preventive Maintenance Services requirements established by the Facility for each Medical Equipment.

5.2.6 Contractor shall coordinate with the Facility prior to all scheduled Preventive Maintenance Services sessions to ensure all relevant Facility staff are notified and has an opportunity to follow-up and address any post-Preventive Maintenance Services Medical Equipment concerns with Philips staff directly following Preventive Maintenance Services sessions. If requested by Facility, Contractor is required to send a 30-day written notice to the Facility before Preventive Maintenance Services are due.

### 5.3 As-Needed Medical Equipment Repair Services:

Contractor shall provide non-Emergency and Emergency Repair Services at the rates set forth in Exhibit B - Pricing Schedule. Unless otherwise indicated in Exhibit B - Pricing Schedule:

5.3.1 Services shall include all labor and all parts; except that X-ray tubes, image intensifiers, TV pick-up tubes, monitors, HV transformers, transducers, crystals and probes, batteries, and other parts not covered under Exhibit B - Pricing Schedule (hereafter "As-Needed Parts") which shall be billed to County on an as-needed basis in accordance with the provisions set forth in this Statement of Work and Exhibit B - Pricing Schedule.

Unserviceable parts must be replaced by Contractor with new parts or parts equivalent to new in performance.

5.3.2 Contractor shall provide non-Emergency Repair Services by qualified service personnel within four (4) hours after notification by Facility, on an eight (8) hour per day, five (5) days per week basis, Monday through Friday between 8:00 a.m. and 5:00 p.m., excluding all County holidays.

5.3.3 Contractor shall respond telephonically within one (1) hour of a request by Facility for Emergency Repair Services and provide Emergency Repair Services by qualified service personnel within four (4) hours after notification by Facility on a twenty-four (24) hours per day, seven (7) days per week, including all County holidays, for Medical Equipment identified on Exhibit B - Pricing Schedule as 24/7 coverage.

- 5.3.4 If either non-Emergency or Emergency Repair Services commence prior to 5:00 p.m., Monday through Friday, but extend beyond 5:00 p.m., no additional service charges shall be incurred by County.
- 5.3.5 If Repair Services are requested by County after 5:00 p.m., Monday through Friday, or on weekends or County holidays, such services shall be considered “Out-of-Scope” services and shall be billed to County in accordance with the provisions set forth in this –Statement of Work and Exhibit B - Pricing Schedule.
- 5.3.6 If Contractor is unable to procure the necessary additional parts or resources to complete repairs within twenty-four (24) hours after repair to the Medical Equipment has begun, Contractor’s service representative shall indicate, in writing, an estimated timeframe for such repair.

5.4 Additional Service Requirements:

- 5.4.1 Breakage and/or Loss: Contractor shall replace and/or repair at the time of servicing any Medical Equipment and/or parts thereof which suffer breakage, damage or loss at the time of servicing or repair, which is caused by Contractor or any of its employees or agents, including negligence and willful misconduct, and to the extent thereof, all at no additional cost to County.
- 5.4.2 Rework: Contractor shall rework improperly repaired Medical Equipment, correct any damage resulting therefrom, and supply all necessary parts and materials therefore at no additional cost to County. Service personnel shall also repair any defective parts purchased and installed by such service personnel and shall repair any damage to the Medical Equipment resulting from, and to the extent of Contractor or any of its employees or agents, including negligence and willful misconduct, all at no additional cost to County.
- 5.4.3 Engineering Hardware and Software Enhancements: All engineering hardware and software upgrades or enhancements (hereafter “Enhancements”) developed and provided by the manufacturer at no cost to the Medical Equipment hereunder shall automatically be made available and installed by Contractor on the Medical Equipment at Facility.

Enhancements developed by the manufacturer and provided by the manufacturer at a cost shall be made available for installation on the Medical Equipment at Facility only upon request and approval of Facility at Contractor’s then-current list or exchange price at the applicable discount as set forth in Exhibit B – Pricing Schedule.

Invoices for Enhancements provided hereunder shall be rendered separately and payment by Facility is due within thirty (30) calendar days of receipt of Contractor’s invoice.

**6.0 MEDICAL EQUIPMENT PERFORMANCE STANDARDS**

6.1 Contractor shall guarantee performance uptime for Medical Equipment at the percentage described below. The performance of each piece of Medical Equipment will be reviewed monthly during each year the Medical Equipment is covered under this Agreement. Should a piece of Medical Equipment fail to meet the uptime criteria in any calendar year, a credit for the particular item of Medical Equipment based upon Exhibit B – Pricing Schedule for the calendar year will be determined as follows:

<b>Uptime Percentage</b>	<b>Annual Price Credit</b>
98% - 100%	None
95% - 97.9%	5%
92% - 94.9%	10%
<91.9%	15%

6.2 Uptime percentage determination. The uptime percentage is determined according to the following formula:

$$\text{Uptime percentage} + (\text{Uptime hours}/\text{Base hours}) \times 100$$

Base hours are the hours Medical Equipment is covered under this Agreement (24 hours x 7 days x 365 days/year).

Except as otherwise provided in the Agreement, this is the County’s sole and exclusive remedy for Contractor’s failure to meet the specific uptime commitment.

6.3 The Medical Equipment shall be considered out-of-service if it is or is deemed by County to be inoperable and unusable or the County reasonably initiates down-time procedures due to lack of system or Medical Equipment functionality (in either case, not due to those items set forth in the definition of excluded services, or a force majeure event). Any credit for Medical Equipment downtime or out-of-services shall be applied to the following month's invoice.

6.4 The Medical Equipment is considered out-of-service when it is not functioning according to the material specifications of the user manual or those set forth in this Agreement. “In-service” is defined as in use or in stand-by status available for use by County.

6.5 Time spent on regularly scheduled maintenance will be excluded from these performance calculations. Additionally, time the Medical Equipment is not

operable due to damage from misuse, operator error contrary to Contractor's instructions or user manual, inadequate environmental conditions including air conditioning, failure or fluctuations in County's electrical power supply, acts of God, strikes or fires, will also be excluded from these performance standards.

- 6.6 Contractor shall maintain a service record history specifying the time, date, and the causes of all unplanned Medical Equipment downtime.
- 6.7 County will review the performance of each piece of Medical Equipment to evaluation uptime performance standard for Medical Equipment covered under this Agreement.

## **7.0 END-OF-PRODUCT LIFE MEDICAL EQUIPMENT**

7.1 Contractor shall provide Facility's Project Director with at least twelve (12) months' prior written notice, either mailed or e-mailed, of all "End-of-Product Life" Medical Equipment. Such notice shall specify the following information:

- 1. "End-of-Product Life" date
- 2. Manufacturer and model number
- 3. Serial number
- 4. Site number or other unique identifier
- 5. Current location at Facility

As used herein, "End-of-Product Life" shall mean the end stage of a Medical Equipment's life cycle whereby Contractor or manufacturer no longer manufactures or supports such Medical Equipment.

7.2 In the event that Contractor agrees to continue services for "End-of-Product Life" Medical Equipment, such services shall be performed in accordance with all terms of this Agreement.

7.3 In the event that Contractor is unable to continue services for "End-of-Product Life" Medical Equipment under all terms of this Agreement, then Director and Contractor shall agree in writing to:

- 1. Move the Medical Equipment from the preventive maintenance schedule to be covered under a time and materials basis with a mutually agreed upon pricing terms and "cap" to the costs. The preventive maintenance costs shall be reduced accordingly; or
- 2. Remove such Medical Equipment from this Agreement and allow the Facility to obtain at least three (3) bids for repair and preventive maintenance services from other vendors. Payment to Contractor shall be reduced as needed in accordance with the terms of the Agreement, including Sub-paragraph 5.5 – Billing and Payments and Exhibit B – Pricing Schedule.



## 8.0 EXCLUSIONS

- 8.1 Contractor may be excused from its obligation to provide the repair services above should any repair be required because of causes other than ordinary use of the Medical Equipment, as determined by County, which include:
1. Improper use, neglect, misplacement, air conditioner or humidity control malfunction or failure, Facility electrical system malfunction or failure not caused by Medical Equipment;
  2. Repair, maintenance, modification, relocation, or reinstallation by any other than Contractor authorized personnel; and
  3. Acts of God, fires, floods, war, acts of sabotage, riots, accidents, or other such causes.
- 8.2 Charges for service to repair Medical Equipment due to the above excluded items shall be invoiced at the rates for labor and parts set forth in Exhibit B - Pricing Schedule. Invoices for services provided hereunder shall be rendered separately,

## 9.0 GENERAL CONTRACTOR REQUIREMENTS

- 9.1 Business License: Prior to the execution of this Agreement, Contractor shall provide to the DHS Contracts and Grants Division a copy of its current business license(s) and appropriate Employer Identification Number.
- 9.2 Recruitment: Contractor shall screen all personnel prior to assigning such personnel to provide services at Facility to ensure that all such persons have the qualifications and training necessary to perform the services contemplated under this Agreement. All such service personnel shall be appropriately licensed, certified, credentialed and trained to perform the maintenance and repair services as necessary and shall have, as a minimum, knowledge and expertise in the following areas:
1. Diagnosis and inspection of Medical Equipment to determine maintenance and repair needs;
  2. Routine cleaning, lubrication and repair, as necessary, of Medical Equipment;
  3. Electrical and safety inspection, as necessary, of Medical Equipment; and
  4. Calibration and functional testing, as necessary.
- 9.3 Risk Management Program: Contractor shall, in association with Facility staff, develop and maintain an equipment risk management program. Such program shall require written documentation of all medical incidents that involve Medical Equipment covered under this Agreement, whereby such

Medical Equipment has or may have caused or contributed to a patient's injury, serious illness, or death. Such documentation shall describe the incident, the Medical Equipment involved in the medical incident, and any subsequent examination of such Medical Equipment. The Facility's Administrator, or authorized designee, in consultation with Contractor and Facility's Risk Manager, shall provide direct oversight of all activities to decommission, sequester, and examine any Medical Equipment which has been involved in a medical incident. Neither party shall use, clean, discard, alter, or repair any Medical Equipment involved in such incident prior to said equipment's examination.

9.4 Reports: Contractor shall prepare and maintain a written record of all services (hereafter "service report") provided on Medical Equipment at the Facility. Such service report(s) shall:

1. Meet all licensing, accrediting and regulatory agency requirements;
2. Clearly identify the Medical Equipment serviced by model number, site and serial number, Los Angeles County Capital Asset Leasing and Los Angeles County number (if available);
3. Include an itemization and description of services performed, including electrical checks and calibration reading;
4. List any parts installed;
5. Include the service date(s); and
6. Give the name of the service technician who performed the service. A copy of such service report shall be given to the Facility at the time the service is performed. Such service reports are the property of County and shall remain on-site at each Facility.

## **10.0 SECURITY OF COUNTY'S SYSTEMS AND NETWORKS**

- 10.1 Contractor shall adhere to County policy, standards and procedures for secure access to County's systems or networks.
- 10.2 Contractor shall maintain an up-to-date record of all Contractor personnel who access County systems or networks. The record shall include the specific individual(s) who accessed the County's system(s), date and time of access, and purpose of access. The access record shall be made available to the County upon request.
- 10.3 Contractor shall obtain permission from the County prior to accessing County systems or networks identified.
- 10.4 To avoid negative impact to the County's network, systems, or patient care, Contractor shall reasonably maintain security patches and anti-virus

protection for all Medical Equipment identified in Exhibit B - Pricing Schedule, including all software and firmware.

- 10.5 Upon Contractor's discovery of a security incident(s) involving Medical Equipment identified in Exhibit B - Pricing Schedule, Contractor shall immediately notify the DHS Enterprise Help Desk. Contractor shall cooperate with County in an effort to contain and remediate security incident(s) for Medical Equipment defined in Exhibit B - Pricing Schedule.
- 10.6 Contractor shall adhere to the County's policies and procedures for physical access to County facilities and remote access into County systems.

## **11.0 IT SECURITY REQUIREMENTS**

- 11.1 All transmitted County information/images must be encrypted using Secure Sockets Layer (SSL) (aka TLS), or equivalent protocol, with a minimal cipher strength of 128-bit. The County will work with Contractor to facilitate a secure connection consistent with these requirements via a lan-2-lan VPN connection, or by other equivalent secure transmittal mechanism(s).
- 11.2 County information at rest (e.g., on servers, desktops/laptops, and portable devices/CDs/thumb drives, etc.) requires Advanced Encryption Standard (AES) with minimal cipher strength of 256-bit. Access to County information at rest must be protected by a complex password. These requirements shall also apply to media that is provided to patients or in instances where Contractor is transporting County information/images.
- 11.3 Contractor's use of remote servers (e.g. cloud storage, Software-as-a-Service [SaaS]) for storage of County information/images shall be subject to pre-approval by the Department of Health Services Chief Information Security Officer.
- 11.4 County information contained on Contractor's imaging systems, computer systems, and media must be obliterated and/or made indecipherable and unrecoverable in compliance with National Institute of Standards and Technology (NIST) Special Publication 800-88 before disposing of said systems/media.

**EXHIBIT A – STATEMENT OF WORK**

**ATTACHMENT A – FACILITY BILLING ADDRESS**

FACILITY	CONTRACT LIAISONS	FACILITY BILLING ADDRESS
<b>DEPARTMENT OF HEALTH SERVICES</b>		
Harbor-UCLA Medical Center (H-UCLA MC)	Uchenna Nworgu 424-306-7102 <a href="mailto:UNworgu@dhs.lacounty.gov">UNworgu@dhs.lacounty.gov</a>	Harbor-UCLA Medical Center Attn: General Accounting Box 479, 1000 West Carson St., Building 3.5 Torrance, CA 90509
LAC+USC Medical Center (LAC+USC MC)	Mark Wycislak 323-409-6472 <a href="mailto:MWycislak@dhs.lacounty.gov">MWycislak@dhs.lacounty.gov</a>	LAC+USC Medical Center Attn: Invoice Processing P.O. Box 86601 Los Angeles, CA 90031
Olive View-UCLA Medical Center (OV-UCLA MC)	Germaine Nicholson 747-210-8433 <a href="mailto:GNicholson@dhs.lacounty.gov">GNicholson@dhs.lacounty.gov</a>	Olive View-UCLA Medical Center Attn: Expenditure Management 14445 Olive View Drive Sylmar, CA 91342
Rancho Los Amigos National Rehabilitation Center (RLANRC)	Virginia Gandara 562-385-7362 <a href="mailto:VGandara@dhs.lacounty.gov">VGandara@dhs.lacounty.gov</a>	Rancho Los Amigos National Rehabilitation Center Attn: CFO, Finance Department SSA Building – Room 2208 7601 East Imperial Highway Downey, CA 90242
Ambulatory Care Network (ACN)		
Finance: Erick Lopez 213-288-9032 <a href="mailto:erlopez@dhs.lacounty.gov">erlopez@dhs.lacounty.gov</a>		
LAC+USC Healthcare Network		
El Monte Comprehensive Health Center (El Monte CHC)	Ernest P. Espinoza 626-434-2800 <a href="mailto:eespinoza@dhs.lacounty.gov">eespinoza@dhs.lacounty.gov</a>	LAC+USC Medical Center Attn: Invoice Processing P.O. Box 86601 Los Angeles, CA 90031
Edward R. Roybal Comprehensive Health Center (Roybal CHC)	Gregory M. Roybal, M.D. 323-362-1410 <a href="mailto:gmroybal@dhs.lacounty.gov">gmroybal@dhs.lacounty.gov</a>	
H. Claude Hudson Comprehensive Health Center (Hudson CHC)	Michael Mills 213-699-7102 <a href="mailto:mmills@dhs.lacounty.gov">mmills@dhs.lacounty.gov</a>	
Metrocare Network		
Martin Luther King, Jr. Outpatient Center (MLK OC)	Joseph Huang 424-338-1006 <a href="mailto:JHuang2@dhs.lacounty.gov">JHuang2@dhs.lacounty.gov</a>	Harbor-UCLA Medical Center Attn: General Accounting Box 479, 1000 West Carson St., Building 3.5 Torrance, CA 90509
Long Beach Comprehensive Health Center (Long Beach CHC)	Jeffrey Barbosa, M.D. 562-753-2302 <a href="mailto:jbarbosa@dhs.lacounty.gov">jbarbosa@dhs.lacounty.gov</a>	
Hubert H. Humphrey Comprehensive Health Center	Raymond Perry, M.D. 323-897-6300	

(Humphrey CHC)	<a href="mailto:rperry@dhs.lacounty.gov">rperry@dhs.lacounty.gov</a>	
<b>Valleycare Network</b>		
High Desert Regional Health Center (HD RHC)	Timothy Moore 661-471-4212 <a href="mailto:TMoore@dhs.lacounty.gov">TMoore@dhs.lacounty.gov</a>	High Desert Regional Health Center Attn: Expenditure Management 335 East Avenue I Lancaster, CA 93535
South Valley Comprehensive Health Center (South Valley CHC)		
Mid Valley Comprehensive Health Center (Mid Valley CHC)	Quentin O'Brien 213-288-9000 <a href="mailto:QOBrien@dhs.lacounty.gov">QOBrien@dhs.lacounty.gov</a>	Olive View-UCLA Medical Center Attn: Expenditure Management 14445 Olive View Drive Sylmar, CA 91342
Emergency Medical Services (EMS)	Angelica Maldonado 562-378-1593 <a href="mailto:AnMaldonado@dhs.lacounty.gov">AnMaldonado@dhs.lacounty.gov</a>	Emergency Medical Services Agency 10100 Pioneer Blvd., Suite 248 Santa Fe Spring, CA 90670
Correctional Health Services (CHS)	Mark Gill 213-288-8951 <a href="mailto:MGill@dhs.lacounty.gov">MGill@dhs.lacounty.gov</a>	Department of Health Services Fiscal Services Division – ICHS General Accounting 313 N. Figueroa St., Suite 505 Los Angeles, CA 90012
Century Regional Detention Facility (CRDF)		
Men's Central Jail (MCJ)		
North County Correctional Facility (NCCF)		
Twin Towers Correctional Facility (TTCF)		
<b>DEPARTMENT OF MEDICAL EXAMINER - CORONER</b>		
	Silvia Gonzalez 323-343-0682 <a href="mailto:SGonzalez@coroner.lacounty.gov">SGonzalez@coroner.lacounty.gov</a>	County of Los Angeles Department of Coroner Attn: Accounting 1104 N. Mission Road Los Angeles, CA 90033-1017

**CONTRACTOR'S SCHEDULE**  
*(Intentionally Omitted)*

## CONTRACTOR'S EEO CERTIFICATION

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 Contractor Name
 

---



---

 Address
 

---



---

 Internal Revenue Service Employer Identification Number
 

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### GENERAL CERTIFICATION

In accordance with Section 4.32.010 of the Code of the County of Los Angeles, the contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

### CONTRACTOR'S SPECIFIC CERTIFICATIONS

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| 1. The Contractor has a written policy statement prohibiting discrimination in all phases of employment.   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. The Contractor periodically conducts a self analysis or utilization analysis of its work force.   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. The Contractor has a system for determining if its employment practices are discriminatory against protected groups.  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action, to include establishment of goals or timetables. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

---

 Authorized Official's Printed Name and Title
 

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---

 Authorized Official's Signature
 

---



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 Date
 

---

## COUNTY'S ADMINISTRATION

AGREEMENT NO. \_\_\_\_\_

### FACILITY'S PROJECT DIRECTOR:

Name: David Chambers  
Title: Director, Facilities Management  
Address: 1000 W. Carson St.  
Torrance, CA 90509  
Telephone: (424) 306-8501 Facsimile: \_\_\_\_\_  
E-Mail Address: dachambers@dhs.lacounty.gov

### FACILITY'S PROJECT MANAGER:

Name: Darren Clark  
Title: Manager I  
Address: 1000 W. Carson St.  
Torrance, CA 90509  
Telephone: (424)306-8517 Facsimile: \_\_\_\_\_  
E-Mail Address: daclark@dhs.lacounty.gov

### FACILITY'S PROJECT MONITOR:

Name: Jonathan Obracevic  
Title: Medical Electronics Tech Working Supervisor  
Address: 1000 W. Carson St.  
Torrance, CA 90509  
Telephone: (424) 306-8387 Facsimile: \_\_\_\_\_  
E-Mail Address: jobracevic@dhs.lacounty.gov



**COUNTY'S ADMINISTRATION**

AGREEMENT NO. \_\_\_\_\_

**FACILITY'S PROJECT DIRECTOR:**

Name: Aries Limbaga

Title: Chief Executive Officer

Address: 7601 E. Imperial Highway  
Downey, CA 90242

Telephone: (562) 385-7022 Facsimile: (562) 803-0056

E-Mail Address: alimbaga@dhs.lacounty.gov

**FACILITY'S PROJECT MANAGER:**

Name: Benjamin Ovando

Title: Chief Operations Officer

Address: 7601 E. Imperial Highway  
Downey, CA 90242

Telephone: (562) 385-7022 Facsimile: (562) 803-0056

E-Mail Address: bovando@dhs.lacounty.gov

**FACILITY'S PROJECT MONITOR:**

Name: Anthony Davis

Title: Facilities Management Director

Address: 7601 E. Imperial Highway  
Downey, CA 90242

Telephone: (562) 385-7291 Facsimile: (562) 803-5647

E-Mail Address: adavis2@dhs.lacounty.gov

**COUNTY'S ADMINISTRATION**

AGREEMENT NO. \_\_\_\_\_

**FACILITY'S PROJECT DIRECTOR:**

Name:     Kay Fruhwirth      
Title:     Assistant Director      
Address:     10100 Pioneer Blvd., Suite 200      
    Santa Fe Springs, CA 90670      
Telephone:     (562) 378-1596     Facsimile:     (562) 941-2397      
E-Mail Address:     kfruhwirth@dhs.lacounty.gov    

**FACILITY'S PROJECT MANAGER:**

Name:     Maria Morales      
Title:     Finance Manager      
Address:     10100 Pioneer Blvd., Suite 200      
    Santa Fe Springs, CA 90670      
Telephone:     (562) 378-1591     Facsimile:     (562) 941-2397      
E-Mail Address:     marmorales@dhs.lacounty.gov    

**FACILITY'S PROJECT MONITOR:**

Name:     Jerry Crow      
Title:     Nursing Instructor      
Address:     10100 Pioneer Blvd., Suite 200      
    Santa Fe Springs, CA 90670      
Telephone:     (562) 378-2443     Facsimile:     (562) 941-2397      
E-Mail Address:     jcrow@dhs.lacounty.gov

# CONTRACTOR'S ADMINISTRATION

**CONTRACTOR'S NAME:** \_\_\_\_\_

**AGREEMENT NO:** \_\_\_\_\_

**CONTRACTOR'S PROJECT MANAGER:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**CONTRACTOR'S AUTHORIZED OFFICIAL(S)**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**Notices to Contractor shall be sent to the following:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT**

CONTRACTOR NAME \_\_\_\_\_ Agreement No. \_\_\_\_\_

**GENERAL INFORMATION:**

The Contractor referenced above has entered into an Agreement with the County of Los Angeles to provide certain services to the County. The County requires the Corporation to sign this Contractor Acknowledgement and Confidentiality Agreement.

**CONTRACTOR ACKNOWLEDGEMENT:**

Contractor understands and agrees that the Contractor employees, consultants, Outsourced Vendors and independent contractors (Contractor's Staff) that will provide services in the above referenced agreement are Contractor's sole responsibility. Contractor understands and agrees that Contractor's Staff must rely exclusively upon Contractor for payment of salary and any and all other benefits payable by virtue of Contractor's Staff's performance of work under the above-referenced Agreement.

Contractor understands and agrees that Contractor's Staff are not employees of the County of Los Angeles for any purpose whatsoever and that Contractor's Staff do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of performance of work under the above-referenced Agreement. Contractor understands and agrees that Contractor's Staff will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

**CONFIDENTIALITY AGREEMENT:**

Contractor and Contractor's Staff may be involved with work pertaining to services provided by the County of Los Angeles and, if so, Contractor and Contractor's Staff may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, Contractor and Contractor's Staff may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. Contractor and Contractor's Staff understand that if they are involved in County work, the County must ensure that Contractor and Contractor's Staff, will protect the confidentiality of such data and information. Consequently, Contractor must sign this Confidentiality Agreement as a condition of work to be provided by Contractor's Staff for the County.

Contractor and Contractor's Staff hereby agrees that they will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced Agreement between Contractor and the County of Los Angeles. Contractor and Contractor's Staff agree to forward all requests for the release of any data or information received to County's Project Manager.

Contractor and Contractor's Staff agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor proprietary information and all other original materials produced, created, or provided to Contractor and Contractor's Staff under the above-referenced Agreement. Contractor and Contractor's Staff agree to protect these confidential materials against disclosure to other than Contractor or County employees who have a need to know the information. Contractor and Contractor's Staff agree that if proprietary information supplied by other County vendors is provided during this employment, Contractor and Contractor's Staff shall keep such information confidential.

Contractor and Contractor's Staff agree to report any and all violations of this agreement by Contractor and Contractor's Staff and/or by any other person of whom Contractor and Contractor's Staff become aware.

Contractor and Contractor's Staff acknowledge that violation of this agreement may subject Contractor and Contractor's Staff to civil and/or criminal action and that the County of Los Angeles may seek all possible legal redress.

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PRINTED NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

Title 2 ADMINISTRATION  
Chapter 2.203.010 through 2.203.090  
CONTRACTOR EMPLOYEE JURY SERVICE

**2.203.010 Findings.**

The board of supervisors makes the following findings. The county of Los Angeles allows its permanent, full-time employees unlimited jury service at their regular pay. Unfortunately, many businesses do not offer or are reducing or even eliminating compensation to employees who serve on juries. This creates a potential financial hardship for employees who do not receive their pay when called to jury service, and those employees often seek to be excused from having to serve. Although changes in the court rules make it more difficult to excuse a potential juror on grounds of financial hardship, potential jurors continue to be excused on this basis, especially from longer trials. This reduces the number of potential jurors and increases the burden on those employers, such as the county of Los Angeles, who pay their permanent, full-time employees while on juror duty. For these reasons, the county of Los Angeles has determined that it is appropriate to require that the businesses with which the county contracts possess reasonable jury service policies. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.020 Definitions.**

The following definitions shall be applicable to this chapter:

- A. "Contractor" means a person, partnership, corporation or other entity which has a contract with the county or a subcontract with a county contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more such contracts or subcontracts.
- B. "Employee" means any California resident who is a full-time employee of a contractor under the laws of California.
- C. "Contract" means any agreement to provide goods to, or perform services for or on behalf of, the county but does not include:
  - 1. A contract where the board finds that special circumstances exist that justify a waiver of the requirements of this chapter; or
  - 2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor; or
  - 3. A purchase made through a state or federal contract; or
  - 4. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, or reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-3700 or a successor provision; or
  - 5. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4.0 or a successor provision; or
  - 6. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-2810 or a successor provision; or
  - 7. A non-agreement purchase with a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section A-0300 or a successor provision; or

Title 2 ADMINISTRATION  
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8. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section PP-1100 or a successor provision.
- D. "Full time" means 40 hours or more worked per week, or a lesser number of hours if:
1. The lesser number is a recognized industry standard as determined by the chief administrative officer, or
  2. The contractor has a long-standing practice that defines the lesser number of hours as full time.
- E. "County" means the county of Los Angeles or any public entities for which the board of supervisors is the governing body. (Ord. 2002-0040 § 1, 2002: Ord. 2002-0015 § 1 (part), 2002)

### **2.203.030 Applicability.**

This chapter shall apply to contractors who enter into contracts that commence after July 11, 2002. This chapter shall also apply to contractors with existing contracts which are extended into option years that commence after July 11, 2002. Contracts that commence after May 28, 2002, but before July 11, 2002, shall be subject to the provisions of this chapter only if the solicitations for such contracts stated that the chapter would be applicable. (Ord. 2002-0040 § 2, 2002: Ord. 2002-0015 § 1 (part), 2002)

### **2.203.040 Contractor Jury Service Policy.**

A contractor shall have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service. (Ord. 2002-0015 § 1 (part), 2002)

### **2.203.050 Other Provisions.**

- A. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.
- B. Compliance Certification. At the time of seeking a contract, a contractor shall certify to the county that it has and adheres to a policy consistent with this chapter or will have and adhere to such a policy prior to award of the contract. (Ord. 2002-0015 § 1 (part), 2002)

### **2.203.060 Enforcement and Remedies.**

For a contractor's violation of any provision of this chapter, the county department head responsible for administering the contract may do one or more of the following:

1. Recommend to the board of supervisors the termination of the contract; and/or,
2. Pursuant to chapter 2.202, seek the debarment of the contractor. (Ord. 2002-0015 § 1 (part), 2002)

Title 2 ADMINISTRATION  
Chapter 2.203.010 through 2.203.090  
CONTRACTOR EMPLOYEE JURY SERVICE

**2.203.070. Exceptions.**

- A. Other Laws. This chapter shall not be interpreted or applied to any contractor or to any employee in a manner inconsistent with the laws of the United States or California.
- B. Collective Bargaining Agreements. This chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. Small Business. This chapter shall not be applied to any contractor that meets all of the following:
  - 1. Has ten or fewer employees during the contract period; and,
  - 2. Has annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, are less than \$500,000; and,
  - 3. Is not an affiliate or subsidiary of a business dominant in its field of operation.

“Dominant in its field of operation” means having more than ten employees and annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, exceed \$500,000.

“Affiliate or subsidiary of a business dominant in its field of operation” means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.090. Severability.**

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 2002-0015 § 1 (part), 2002)

**BUSINESS ASSOCIATE AGREEMENT UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")**

County is a Covered Entity as defined by, and subject to the requirements and prohibitions of, the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules").

Contractor performs or provides functions, activities or services to County that require Contractor in order to provide such functions, activities or services to create, access, receive, maintain, and/or transmit information that includes or that may include Protected Health Information, as defined by the HIPAA Rules. As such, Contractor is a Business Associate, as defined by the HIPAA Rules, and is therefore subject to those provisions of the HIPAA Rules that are applicable to Business Associates.

The HIPAA Rules require a written agreement ("Business Associate Agreement") between County and Contractor in order to mandate certain protections for the privacy and security of Protected Health Information, and these HIPAA Rules prohibit the disclosure to or use of Protected Health Information by Contractor if such an agreement is not in place.

This Business Associate Agreement and its provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Contractor in compliance with the HIPAA Rules.

Therefore, the parties agree as follows:

**1. DEFINITIONS**

- 1.1 "Breach" has the same meaning as the term "breach" at 45 C.F.R. § 164.402.
- 1.2 "Business Associate" has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. For the convenience of the parties, a "business associate" is a person or entity, other than a member of the workforce of covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to Protected Health Information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of another business associate. And in reference to the party to this Business Associate Agreement "Business Associate" shall mean Contractor.



- 1.3 "Covered Entity" has the same meaning as the term "covered entity" at 45 C.F.R. § 160.103, and in reference to the party to this Business Associate Agreement, "Covered Entity" shall mean County.
- 1.4 "Data Aggregation" has the same meaning as the term "data aggregation" at 45 C.F.R. § 164.501.
- 1.5 "De-identification" refers to the de-identification standard at 45 C.F.R. § 164.514.
- 1.6 "Designated Record Set" has the same meaning as the term "designated record set" at 45 C.F.R. § 164.501.
- 1.7 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its workforce. (See 45 C.F.R. § 160.103.)
- 1.8 "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff. (See 42 U.S. C. § 17921.)
- 1.9 "Electronic Media" has the same meaning as the term "electronic media" at 45 C.F.R. § 160.103. For the convenience of the parties, electronic media means (1) Electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media if the information being exchanged did not exist in electronic form immediately before the transmission.
- 1.10 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" at 45 C.F.R. § 160.103, limited to Protected Health Information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.

- 1.11 "Health Care Operations" has the same meaning as the term "health care operations" at 45 C.F.R. § 164.501.
- 1.12 "Individual" has the same meaning as the term "individual" at 45 C.F.R. § 160.103. For the convenience of the parties, Individual means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502 (g).
- 1.13 "Law Enforcement Official" has the same meaning as the term "law enforcement official" at 45 C.F.R. § 164.103.
- 1.14 "Minimum Necessary" refers to the minimum necessary standard at 45 C.F.R. § 164.502 (b).
- 1.15 "Protected Health Information" has the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, and includes Protected Health Information that is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Protected Health Information.
- 1.16 "Required by Law" " has the same meaning as the term "required by law" at 45 C.F.R. § 164.103.
- 1.17 "Secretary" has the same meaning as the term "secretary" at 45 C.F.R. § 160.103
- 1.18 "Security Incident" has the same meaning as the term "security incident" at 45 C.F.R. § 164.304.
- 1.19 "Services" means, unless otherwise specified, those functions, activities, or services in the applicable underlying Agreement, Contract, Master Agreement, Work Order, or Purchase Order or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

- 1.20 "Subcontractor" has the same meaning as the term "subcontractor" at 45 C.F.R. § 160.103.
- 1.21 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" at 45 C.F.R. § 164.402.
- 1.22 "Use" or "Uses" means, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations. (See 45 C.F.R § 164.103.)
- 1.23 Terms used, but not otherwise defined in this Business Associate Agreement, have the same meaning as those terms in the HIPAA Rules.

## **2. PERMITTED AND REQUIRED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION**

- 2.1 Business Associate may only Use and/or Disclose Protected Health Information as necessary to perform Services, and/or as necessary to comply with the obligations of this Business Associate Agreement.
- 2.2 Business Associate may Use Protected Health Information for de-identification of the information if de-identification of the information is required to provide Services.
- 2.3 Business Associate may Use or Disclose Protected Health Information as Required by Law.
- 2.4 Business Associate shall make Uses and Disclosures and requests for Protected Health Information consistent with the Covered Entity's applicable Minimum Necessary policies and procedures.
- 2.5 Business Associate may Use Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities.
- 2.6 Business Associate may Disclose Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities, provided the Disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed (i.e., the recipient) 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 recipient and the recipient notifies Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.

- 2.7 Business Associate may provide Data Aggregation services relating to Covered Entity's Health Care Operations if such Data Aggregation services are necessary in order to provide Services.

**3. PROHIBITED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION**

- 3.1 Business Associate shall not Use or Disclose Protected Health Information other than as permitted or required by this Business Associate Agreement or as Required by Law.
- 3.2 Business Associate shall not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Sections 2.5 and 2.6.
- 3.3 Business Associate shall not Use or Disclose Protected Health Information for de-identification of the information except as set forth in section 2.2.

**4. OBLIGATIONS TO SAFEGUARD PROTECTED HEALTH INFORMATION**

- 4.1 Business Associate shall implement, use, and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information other than as provided for by this Business Associate Agreement.
- 4.2 Business Associate shall comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for by this Business Associate Agreement.

**5. REPORTING NON-PERMITTED USES OR DISCLOSURES, SECURITY INCIDENTS, AND BREACHES OF UNSECURED PROTECTED HEALTH INFORMATION**

- 5.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information not permitted by this Business Associate Agreement, any Security Incident, and/ or any Breach of Unsecured Protected Health Information as further described in Sections 5.1.1, 5.1.2, and 5.1.3.
- 5.1.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors not provided for by this Agreement of which Business Associate becomes aware.

- 5.1.2 Business Associate shall report to Covered Entity any Security Incident of which Business Associate becomes aware.
- 5.1.3 Business Associate shall report to Covered Entity any Breach by Business Associate, its employees, representatives, agents, workforce members, or Subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate, including a Subcontractor, as determined in accordance with the federal common law of agency.
- 5.2 Except as provided in Section 5.3, for any reporting required by Section 5.1, Business Associate shall provide, to the extent available, all information required by, and within the times frames specified in, Sections 5.2.1 and 5.2.2.
- 5.2.1 Business Associate shall make an immediate telephonic report upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information to **(562) 940-3335** that minimally includes:
- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
  - (b) The number of Individuals whose Protected Health Information is involved;
  - (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or 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);
  - (d) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach
- 5.2.2 Business Associate shall make a written report without unreasonable delay and in no event later than three (3) business days from the date of discovery by Business Associate of the non-permitted Use or Disclosure

of Protected Health Information, Security Incident, or Breach of Unsecured Protected Health Information and to the **Chief HIPAA Privacy Officer at: Hall of Records, County of Los Angeles, Chief Executive Office, Risk Management Branch-Office of Privacy, 320 W. Temple Street, 7<sup>th</sup> Floor, Los Angeles, California 90012, [PRIVACY@ceo.lacounty.gov](mailto:PRIVACY@ceo.lacounty.gov)**, that includes, to the extent possible:

- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
- (b) The number of Individuals whose Protected Health Information is involved;
- (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or 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);
- (d) The identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, Used, or Disclosed;
- (e) Any other information necessary to conduct an assessment of whether notification to the Individual(s) under 45 C.F.R. § 164.404 is required;
- (f) Any steps Business Associate believes that the Individual(s) could take to protect him or herself from potential harm from the non-permitted Use or Disclosure, Security Incident, or Breach;
- (g) A brief description of what Business Associate is doing to investigate, to mitigate harm to the Individual(s), and to protect against any further similar occurrences; and
- (h) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.

5.2.3 If Business Associate is not able to provide the information specified in Section 5.2.1 or 5.2.2 at the time of the required report, Business Associate shall provide such information promptly thereafter as such information becomes available.

- 5.3 Business Associate may delay the notification required by Section 5.1.3, if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security.
- 5.3.1 If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay its reporting and/or notification obligation(s) for the time period specified by the official.
- 5.3.2 If the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay its reporting and/or notification obligation(s) temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in Section 5.3.1 is submitted during that time.

## **6. WRITTEN ASSURANCES OF SUBCONTRACTORS**

- 6.1 In accordance with 45 C.F.R. § 164.502 (e)(1)(ii) and § 164.308 (b)(2), if applicable, Business Associate shall ensure that any Subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate is made aware of its status as a Business Associate with respect to such information and that Subcontractor agrees in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.
- 6.2 Business Associate shall take reasonable steps to cure any material breach or violation by Subcontractor of the agreement required by Section 6.1.
- 6.3 If the steps required by Section 6.2 do not cure the breach or end the violation, Contractor shall terminate, if feasible, any arrangement with Subcontractor by which Subcontractor creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate.
- 6.4 If neither cure nor termination as set forth in Sections 6.2 and 6.3 is feasible, Business Associate shall immediately notify County.
- 6.5 Without limiting the requirements of Section 6.1, the agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall require Subcontractor to contemporaneously notify Covered Entity in the event of a Breach of Unsecured Protected Health Information.
- 6.6 Without limiting the requirements of Section 6.1, agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall include a provision requiring Subcontractor to destroy, or in the alternative to return



- to Business Associate, any Protected Health Information created, received, maintained, or transmitted by Subcontractor on behalf of Business Associate so as to enable Business Associate to comply with the provisions of Section 18.4.
- 6.7 Business Associate shall provide to Covered Entity, at Covered Entity's request, a copy of any and all Subcontractor Business Associate Agreements required by Section 6.1.
- 6.8 Sections 6.1 and 6.7 are not intended by the parties to limit in any way the scope of Business Associate's obligations related to Subcontracts or Subcontracting in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

## **7. ACCESS TO PROTECTED HEALTH INFORMATION**

- 7.1 To the extent Covered Entity determines that Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within two (2) business days after receipt of a request from Covered Entity, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and shall provide such Individuals(s) or other person(s) designated by Covered Entity with a copy the specified Protected Health Information, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.524.
- 7.2 If any Individual requests access to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within two (2) days of the receipt of the request. Whether access shall be provided or denied shall be determined by Covered Entity.
- 7.3 To the extent that Business Associate maintains Protected Health Information that is subject to access as set forth above in one or more Designated Record Sets electronically and if the Individual requests an electronic copy of such information, Business Associate shall provide the Individual with access to the Protected Health Information in the electronic form and format requested by the Individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual.



**8. AMENDMENT OF PROTECTED HEALTH INFORMATION**

- 8.1 To the extent Covered Entity determines that any Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within ten (10) business days after receipt of a written request from Covered Entity, make any amendments to such Protected Health Information that are requested by Covered Entity, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.526.
- 8.2 If any Individual requests an amendment to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request. Whether an amendment shall be granted or denied shall be determined by Covered Entity.

**9. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION**

- 9.1 Business Associate shall maintain an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or Subcontractors, as is determined by Covered Entity to be necessary in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.
- 9.1.1 Any accounting of disclosures provided by Business Associate under Section 9.1 shall include:
- (a) The date of the Disclosure;
  - (b) The name, and address if known, of the entity or person who received the Protected Health Information;
  - (c) A brief description of the Protected Health Information Disclosed; and
  - (d) A brief statement of the purpose of the Disclosure.
- 9.1.2 For each Disclosure that could require an accounting under Section 9.1, Business Associate shall document the information specified in Section 9.1.1, and shall maintain the information for six (6) years from the date of the Disclosure.
- 9.2 Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of a written request from Covered Entity,

information collected in accordance with Section 9.1.1 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528

- 9.3 If any Individual requests an accounting of disclosures directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request, and shall provide the requested accounting of disclosures to the Individual(s) within 30 days. The information provided in the accounting shall be in accordance with 45 C.F.R. § 164.528.

## **10. COMPLIANCE WITH APPLICABLE HIPAA RULES**

- 10.1 To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity's performance of such obligation(s).
- 10.2 Business Associate shall comply with all HIPAA Rules applicable to Business Associate in the performance of Services.

## **11. AVAILABILITY OF RECORDS**

- 11.1 Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations.
- 11.2 Unless prohibited by the Secretary, Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

## **12. MITIGATION OF HARMFUL EFFECTS**

- 12.1 Business Associate shall mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement that is known to Business Associate.

## **13. BREACH NOTIFICATION TO INDIVIDUALS**

- 13.1 Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information by

Business Associate, its employees, representatives, agents or Subcontractors, provide breach notification to the Individual in a manner that permits Covered Entity to comply with its obligations under 45 C.F.R. § 164.404.

- 13.1.1 Business Associate shall notify, subject to the review and approval of Covered Entity, each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of any such Breach.
- 13.1.2 The notification provided by Business Associate shall be written in plain language, shall be subject to review and approval by Covered Entity, and shall include, to the extent possible:
- (a) A brief description of what happened, including the date of the Breach and the date of the Discovery of the Breach, if known;
  - (b) A description of the types of Unsecured Protected Health Information 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);
  - (c) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
  - (d) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individual(s), and to protect against any further Breaches; and
  - (e) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
- 13.2 Covered Entity, in its sole discretion, may elect to provide the notification required by Section 13.1 and/or to establish the contact procedures described in Section 13.1.2.
- 13.3 Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, in complying with Subpart D of 45 C.F.R. Part 164, including but not limited to costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information; Covered Entity shall not be responsible for any costs incurred by Business Associate in providing the notification required by 13.1 or in establishing the contact procedures required by Section 13.1.2.

**14. INDEMNIFICATION**

- 14.1 Business Associate shall indemnify, defend, and hold harmless Covered Entity, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, expenses (including attorney and expert witness fees), and penalties and/or fines (including regulatory penalties and/or fines), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement, including, but not limited to, compliance and/or enforcement actions and/or activities, whether formal or informal, by the Secretary or by the Attorney General of the State of California.
- 14.2 Section 14.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Insurance and/or Indemnification in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

**15. OBLIGATIONS OF COVERED ENTITY**

- 15.1 Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the Use or Disclosure of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own Uses and Disclosures accordingly.
- 15.2 Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except to the extent that Business Associate may Use or Disclose Protected Health Information as provided in Sections 2.3, 2.5, and 2.6.

**16. TERM**

- 16.1 Unless sooner terminated as set forth in Section 17, the term of this Business Associate Agreement shall be the same as the term of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 16.2 Notwithstanding Section 16.1, Business Associate's obligations under Sections 11, 14, and 18 shall survive the termination or expiration of this Business Associate Agreement.

**17. TERMINATION FOR CAUSE**

- 17.1 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and the breaching party has not cured the breach or ended the violation within the time specified by the non-breaching party, which shall be reasonable given the nature of the breach and/or violation, the non-breaching party may terminate this Business Associate Agreement.
- 17.2 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and cure is not feasible, the non-breaching party may terminate this Business Associate Agreement immediately.

**18. DISPOSITION OF PROTECTED HEALTH INFORMATION UPON TERMINATION OR EXPIRATION**

- 18.1 Except as provided in Section 18.3, upon termination for any reason or expiration of this Business Associate Agreement, Business Associate shall return or, if agreed to by Covered entity, shall destroy as provided for in Section 18.2, all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that Business Associate, including any Subcontractor, still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.
- 18.2 Destruction for purposes of Section 18.2 and Section 6.6 shall mean that media on which the Protected Health Information is stored or recorded has been destroyed and/or electronic media have been cleared, purged, or destroyed in accordance with the use of a technology or methodology specified by the Secretary in guidance for rendering Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals.
- 18.3 Notwithstanding Section 18.1, in the event that return or destruction of Protected Health Information is not feasible or Business Associate determines that any such Protected Health Information is necessary for Business Associate to continue its proper management and administration

or to carry out its legal responsibilities, Business Associate may retain that Protected Health Information for which destruction or return is infeasible or that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities and shall return or destroy all other Protected Health Information.

- 18.3.1 Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information, including continuing to use appropriate safeguards and continuing to comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for in Sections 2.5 and 2.6 for so long as such Protected Health Information is retained, and Business Associate shall not Use or Disclose such Protected Health Information other than for the purposes for which such Protected Health Information was retained.
- 18.3.2 Business Associate shall return or, if agreed to by Covered entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for Business Associate's proper management and administration or to carry out its legal responsibilities.
- 18.4 Business Associate shall ensure that all Protected Health Information created, maintained, or received by Subcontractors is returned or, if agreed to by Covered entity, destroyed as provided for in Section 18.2.

## **19. AUDIT, INSPECTION, AND EXAMINATION**

- 19.1 Covered Entity reserves the right to conduct a reasonable inspection of the facilities, systems, information systems, books, records, agreements, and policies and procedures relating to the Use or Disclosure of Protected Health Information for the purpose determining whether Business Associate is in compliance with the terms of this Business Associate Agreement and any non-compliance may be a basis for termination of this Business Associate Agreement and the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, as provided for in section 17.
- 19.2 Covered Entity and Business Associate shall mutually agree in advance upon the scope, timing, and location of any such inspection.
- 19.3 At Business Associate's request, and to the extent permitted by law, Covered Entity shall execute a nondisclosure agreement, upon terms and conditions mutually agreed to by the parties.

- 19.4 That Covered Entity inspects, fails to inspect, or has the right to inspect as provided for in Section 19.1 does not relieve Business Associate of its responsibility to comply with this Business Associate Agreement and/or the HIPAA Rules or impose on Covered Entity any responsibility for Business Associate's compliance with any applicable HIPAA Rules.
- 19.5 Covered Entity's failure to detect, its detection but failure to notify Business Associate, or its detection but failure to require remediation by Business Associate of an unsatisfactory practice by Business Associate, shall not constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Business Associate Agreement or the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 19.6 Section 19.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Inspection and/or Audit and/or similar review in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

## **20. MISCELLANEOUS PROVISIONS**

- 20.1 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with the terms and conditions of this Business Associate Agreement will be adequate or satisfactory to meet the business needs or legal obligations of Business Associate.
- 20.2 HIPAA Requirements. The Parties agree that the provisions under HIPAA Rules that are required by law to be incorporated into this Amendment are hereby incorporated into this Agreement.
- 20.3 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 20.4 Construction. In the event that a provision of this Business Associate Agreement is contrary to a provision of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of the applicable underlying Agreement, Contract, Master Agreement, Work

Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

- 20.5 Regulatory References. A reference in this Business Associate Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- 20.6 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Rules.
- 20.7 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the HIPAA Rules and any other privacy laws governing Protected Health Information.



BUSINESS ASSOCIATE LISTING

**Business Associate Name:** \_\_\_\_\_

**Type of Services Provided:** \_\_\_\_\_

**Website URL:** \_\_\_\_\_

**First Point of Contact:**

**Title:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **E-mail:** \_\_\_\_\_

**Second Point of Contact:**

**Title:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **E-mail:** \_\_\_\_\_

## Medical Health Screening

All potential Contractor personnel shall complete to the satisfaction of County a medical health screening to determine if the person meets the medical criteria and immunizations standards established for the prospective job classification/assignment before commencing services. The Contractor shall use the DHS Forms and medical health screening methodology provided in the Contractor package.

The medical health screening shall be performed by a physician or other licensed healthcare professional (PLHCP) authorized to perform such a physical screening, with such cost at the expense of the Contractor. If the Contractor chooses to have the DHS Employee Health Services (EHS) perform such assessments and screening and such services are available, the Contractor will be billed for the services regardless if the Contractor's staff passes or fails the screening. Contractor personnel shall present a letter on Contractor letterhead authorizing personnel to obtain the screening from DHS' EHS. DHS EHS will bill the Contractor for the cost and/or deduct the amount from funds owed.

Contractor personnel shall provide DHS EHS with documentation of health screenings and evidence of the absence of communicable diseases using the County's "Health Clearance E2" forms. The forms must be signed by a healthcare provider attesting all information is true and accurate OR workforce member may supply all required source documents to DHS Employee Health Services to be verified.

The Contractor must provide DHS EHS with the source documents for review within four (4) hours of a request. Source documents pertaining to the pre-employment health evaluation, Tuberculosis, Respiratory Fit Testing, and other immunizations will be maintained by the Contractor. Failure to provide appropriate source documentation of health screenings/clearance will result in immediate release from assignment and there will be no further placement of Contractor's personnel until compliant.

DHS Facility Staff are required to ensure the Contractor personnel receives the appropriate documents; has submitted them to the facility EHS and has obtained health clearance prior to beginning the work assignment.

No person will be allowed to work at anytime inside a DHS medical facility without appropriate documentation of health screening. In those instances where persons have no demonstrated immunity, and have refused vaccination, a waiver to that effect must be obtained and on file. Lack of immunity to certain diseases will restrict assignment locations within the hospital.

All Contractor personnel who have potential exposure to respiratory hazards and/ or aerosol transmissible disease shall provide appropriate documentation of a respiratory fit test on the same make, model, style, and size of respirator that will be used in facility. If indicated, this requirement is mandatory annually.

## Medical Health Screening

Per County policy, Contractor personnel are required to comply with annual health screening. Unless provided for per contract, Contractor personnel shall have their PLHCP conduct the assessment in accordance with County policy and procedures. This documentation is the "E2 Health Clearance". The workforce member will be provided with the necessary documentation for completion and submission to their PLHCP. The PLHCP will complete the documents and submit them to the Contractor, as appropriate, with the completed forms.

Contractor personnel will be given a 30-day reminder to comply with annual health screening requirements. Contractor personnel who do not comply with annual or other health screening requirements may be given a letter indicating they have five (5) days to comply or face release from assignment. A copy of the "letter" will be provided to the Contractor personnel's supervisor for action. Failure to provide documentation of health screening/clearance will result in immediate release from assignment and no further placement until compliant.

Emergency services will be provided post-exposure to Contractor personnel who have potential exposure to occupational hazards within the allowable time frames, but will be billed to the Contractor, as appropriate. Contractor personnel who are exposed to occupational hazard or incur injury while performing their duties for the County will be reported on the OSHA Log 300/301, as required by state and federal regulation and guidelines.

In the event of an occupational needlestick injury or other exposure to Contractor personnel to blood and body fluids or airborne contaminants, medical care will be provided by the DHS EHS or Emergency Room, but will be billed to the Contractor, as appropriate. Contractor personnel may go to the facility DHS EHS or the designated department for initial care within the allowable treatment time frames. Cost of initial treatment will be billed to the Contractor, as appropriate. Subsequent follow-up treatment will be conducted through the appropriate agency's medical provider or the employee's personal physician. If Contractor chooses to have the DHS EHS provide subsequent follow-up care, the Contractor will be billed accordingly.

**CONTRACTOR'S SCHEDULE**  
*(Intentionally Omitted)*

## CONTRACTOR'S EEO CERTIFICATION

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 Contractor Name
 

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 Address
 

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 Internal Revenue Service Employer Identification Number
 

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### GENERAL CERTIFICATION

In accordance with Section 4.32.010 of the Code of the County of Los Angeles, the contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

### CONTRACTOR'S SPECIFIC CERTIFICATIONS

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| 1. The Contractor has a written policy statement prohibiting discrimination in all phases of employment.   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. The Contractor periodically conducts a self analysis or utilization analysis of its work force.   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. The Contractor has a system for determining if its employment practices are discriminatory against protected groups.  | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action, to include establishment of goals or timetables. | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

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 Authorized Official's Printed Name and Title
 

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 Authorized Official's Signature
 

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 Date
 

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## COUNTY'S ADMINISTRATION

AGREEMENT NO. \_\_\_\_\_

### FACILITY'S PROJECT DIRECTOR:

Name: David Chambers  
Title: Director, Facilities Management  
Address: 1000 W. Carson St.  
Torrance, CA 90509  
Telephone: (424) 306-8501 Facsimile: \_\_\_\_\_  
E-Mail Address: dachambers@dhs.lacounty.gov

### FACILITY'S PROJECT MANAGER:

Name: Darren Clark  
Title: Manager I  
Address: 1000 W. Carson St.  
Torrance, CA 90509  
Telephone: (424)306-8517 Facsimile: \_\_\_\_\_  
E-Mail Address: daclark@dhs.lacounty.gov

### FACILITY'S PROJECT MONITOR:

Name: Jonathan Obrancevic  
Title: Medical Electronics Tech Working Supervisor  
Address: 1000 W. Carson St.  
Torrance, CA 90509  
Telephone: (424) 306-8387 Facsimile: \_\_\_\_\_  
E-Mail Address: jobrancevic@dhs.lacounty.gov

**COUNTY'S ADMINISTRATION**

AGREEMENT NO. \_\_\_\_\_

**FACILITY'S PROJECT DIRECTOR:**

Name: Aries Limbaga

Title: Chief Executive Officer

Address: 7601 E. Imperial Highway  
Downey, CA 90242

Telephone: (562) 385-7022 Facsimile: (562) 803-0056

E-Mail Address: alimbaga@dhs.lacounty.gov

**FACILITY'S PROJECT MANAGER:**

Name: Benjamin Ovando

Title: Chief Operations Officer

Address: 7601 E. Imperial Highway  
Downey, CA 90242

Telephone: (562) 385-7022 Facsimile: (562) 803-0056

E-Mail Address: bovando@dhs.lacounty.gov

**FACILITY'S PROJECT MONITOR:**

Name: Anthony Davis

Title: Facilities Management Director

Address: 7601 E. Imperial Highway  
Downey, CA 90242

Telephone: (562) 385-7291 Facsimile: (562) 803-5647

E-Mail Address: adavis2@dhs.lacounty.gov

**COUNTY'S ADMINISTRATION**

AGREEMENT NO. \_\_\_\_\_

**FACILITY'S PROJECT DIRECTOR:**

Name:     Kay Fruhwirth      
Title:     Assistant Director      
Address:     10100 Pioneer Blvd., Suite 200      
    Santa Fe Springs, CA 90670      
Telephone:     (562) 378-1596     Facsimile:     (562) 941-2397      
E-Mail Address:     kfruhwirth@dhs.lacounty.gov    

**FACILITY'S PROJECT MANAGER:**

Name:     Maria Morales      
Title:     Finance Manager      
Address:     10100 Pioneer Blvd., Suite 200      
    Santa Fe Springs, CA 90670      
Telephone:     (562) 378-1591     Facsimile:     (562) 941-2397      
E-Mail Address:     marmorales@dhs.lacounty.gov    

**FACILITY'S PROJECT MONITOR:**

Name:     Jerry Crow      
Title:     Nursing Instructor      
Address:     10100 Pioneer Blvd., Suite 200      
    Santa Fe Springs, CA 90670      
Telephone:     (562) 378-2443     Facsimile:     (562) 941-2397      
E-Mail Address:     jcrow@dhs.lacounty.gov



# CONTRACTOR'S ADMINISTRATION

**CONTRACTOR'S NAME:** \_\_\_\_\_

**AGREEMENT NO:** \_\_\_\_\_

**CONTRACTOR'S PROJECT MANAGER:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**CONTRACTOR'S AUTHORIZED OFFICIAL(S)**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**Notices to Contractor shall be sent to the following:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT**

CONTRACTOR NAME \_\_\_\_\_ Agreement No. \_\_\_\_\_

**GENERAL INFORMATION:**

The Contractor referenced above has entered into an Agreement with the County of Los Angeles to provide certain services to the County. The County requires the Corporation to sign this Contractor Acknowledgement and Confidentiality Agreement.

**CONTRACTOR ACKNOWLEDGEMENT:**

Contractor understands and agrees that the Contractor employees, consultants, Outsourced Vendors and independent contractors (Contractor's Staff) that will provide services in the above referenced agreement are Contractor's sole responsibility. Contractor understands and agrees that Contractor's Staff must rely exclusively upon Contractor for payment of salary and any and all other benefits payable by virtue of Contractor's Staff's performance of work under the above-referenced Agreement.

Contractor understands and agrees that Contractor's Staff are not employees of the County of Los Angeles for any purpose whatsoever and that Contractor's Staff do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of performance of work under the above-referenced Agreement. Contractor understands and agrees that Contractor's Staff will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

**CONFIDENTIALITY AGREEMENT:**

Contractor and Contractor's Staff may be involved with work pertaining to services provided by the County of Los Angeles and, if so, Contractor and Contractor's Staff may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, Contractor and Contractor's Staff may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. Contractor and Contractor's Staff understand that if they are involved in County work, the County must ensure that Contractor and Contractor's Staff, will protect the confidentiality of such data and information. Consequently, Contractor must sign this Confidentiality Agreement as a condition of work to be provided by Contractor's Staff for the County.

Contractor and Contractor's Staff hereby agrees that they will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced Agreement between Contractor and the County of Los Angeles. Contractor and Contractor's Staff agree to forward all requests for the release of any data or information received to County's Project Manager.

Contractor and Contractor's Staff agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor proprietary information and all other original materials produced, created, or provided to Contractor and Contractor's Staff under the above-referenced Agreement. Contractor and Contractor's Staff agree to protect these confidential materials against disclosure to other than Contractor or County employees who have a need to know the information. Contractor and Contractor's Staff agree that if proprietary information supplied by other County vendors is provided during this employment, Contractor and Contractor's Staff shall keep such information confidential.

Contractor and Contractor's Staff agree to report any and all violations of this agreement by Contractor and Contractor's Staff and/or by any other person of whom Contractor and Contractor's Staff become aware.

Contractor and Contractor's Staff acknowledge that violation of this agreement may subject Contractor and Contractor's Staff to civil and/or criminal action and that the County of Los Angeles may seek all possible legal redress.

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PRINTED NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

Title 2 ADMINISTRATION  
Chapter 2.203.010 through 2.203.090  
CONTRACTOR EMPLOYEE JURY SERVICE

**2.203.010 Findings.**

The board of supervisors makes the following findings. The county of Los Angeles allows its permanent, full-time employees unlimited jury service at their regular pay. Unfortunately, many businesses do not offer or are reducing or even eliminating compensation to employees who serve on juries. This creates a potential financial hardship for employees who do not receive their pay when called to jury service, and those employees often seek to be excused from having to serve. Although changes in the court rules make it more difficult to excuse a potential juror on grounds of financial hardship, potential jurors continue to be excused on this basis, especially from longer trials. This reduces the number of potential jurors and increases the burden on those employers, such as the county of Los Angeles, who pay their permanent, full-time employees while on juror duty. For these reasons, the county of Los Angeles has determined that it is appropriate to require that the businesses with which the county contracts possess reasonable jury service policies. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.020 Definitions.**

The following definitions shall be applicable to this chapter:

- A. "Contractor" means a person, partnership, corporation or other entity which has a contract with the county or a subcontract with a county contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more such contracts or subcontracts.
- B. "Employee" means any California resident who is a full-time employee of a contractor under the laws of California.
- C. "Contract" means any agreement to provide goods to, or perform services for or on behalf of, the county but does not include:
  - 1. A contract where the board finds that special circumstances exist that justify a waiver of the requirements of this chapter; or
  - 2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor; or
  - 3. A purchase made through a state or federal contract; or
  - 4. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, or reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-3700 or a successor provision; or
  - 5. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4.0 or a successor provision; or
  - 6. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-2810 or a successor provision; or
  - 7. A non-agreement purchase with a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section A-0300 or a successor provision; or

Title 2 ADMINISTRATION  
Chapter 2.203.010 through 2.203.090  
CONTRACTOR EMPLOYEE JURY SERVICE

8. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section PP-1100 or a successor provision.
- D. "Full time" means 40 hours or more worked per week, or a lesser number of hours if:
1. The lesser number is a recognized industry standard as determined by the chief administrative officer, or
  2. The contractor has a long-standing practice that defines the lesser number of hours as full time.
- E. "County" means the county of Los Angeles or any public entities for which the board of supervisors is the governing body. (Ord. 2002-0040 § 1, 2002: Ord. 2002-0015 § 1 (part), 2002)

**2.203.030 Applicability.**

This chapter shall apply to contractors who enter into contracts that commence after July 11, 2002. This chapter shall also apply to contractors with existing contracts which are extended into option years that commence after July 11, 2002. Contracts that commence after May 28, 2002, but before July 11, 2002, shall be subject to the provisions of this chapter only if the solicitations for such contracts stated that the chapter would be applicable. (Ord. 2002-0040 § 2, 2002: Ord. 2002-0015 § 1 (part), 2002)

**2.203.040 Contractor Jury Service Policy.**

A contractor shall have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.050 Other Provisions.**

- A. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.
- B. Compliance Certification. At the time of seeking a contract, a contractor shall certify to the county that it has and adheres to a policy consistent with this chapter or will have and adhere to such a policy prior to award of the contract. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.060 Enforcement and Remedies.**

For a contractor's violation of any provision of this chapter, the county department head responsible for administering the contract may do one or more of the following:

1. Recommend to the board of supervisors the termination of the contract; and/or,
2. Pursuant to chapter 2.202, seek the debarment of the contractor. (Ord. 2002-0015 § 1 (part), 2002)

Title 2 ADMINISTRATION  
Chapter 2.203.010 through 2.203.090  
CONTRACTOR EMPLOYEE JURY SERVICE

**2.203.070. Exceptions.**

- A. Other Laws. This chapter shall not be interpreted or applied to any contractor or to any employee in a manner inconsistent with the laws of the United States or California.
- B. Collective Bargaining Agreements. This chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. Small Business. This chapter shall not be applied to any contractor that meets all of the following:
  - 1. Has ten or fewer employees during the contract period; and,
  - 2. Has annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, are less than \$500,000; and,
  - 3. Is not an affiliate or subsidiary of a business dominant in its field of operation.

“Dominant in its field of operation” means having more than ten employees and annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, exceed \$500,000.

“Affiliate or subsidiary of a business dominant in its field of operation” means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.090. Severability.**

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 2002-0015 § 1 (part), 2002)

**BUSINESS ASSOCIATE AGREEMENT UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")**

County is a Covered Entity as defined by, and subject to the requirements and prohibitions of, the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules").

Contractor performs or provides functions, activities or services to County that require Contractor in order to provide such functions, activities or services to create, access, receive, maintain, and/or transmit information that includes or that may include Protected Health Information, as defined by the HIPAA Rules. As such, Contractor is a Business Associate, as defined by the HIPAA Rules, and is therefore subject to those provisions of the HIPAA Rules that are applicable to Business Associates.

The HIPAA Rules require a written agreement ("Business Associate Agreement") between County and Contractor in order to mandate certain protections for the privacy and security of Protected Health Information, and these HIPAA Rules prohibit the disclosure to or use of Protected Health Information by Contractor if such an agreement is not in place.

This Business Associate Agreement and its provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Contractor in compliance with the HIPAA Rules.

Therefore, the parties agree as follows:

**1. DEFINITIONS**

- 1.1 "Breach" has the same meaning as the term "breach" at 45 C.F.R. § 164.402.
- 1.2 "Business Associate" has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. For the convenience of the parties, a "business associate" is a person or entity, other than a member of the workforce of covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to Protected Health Information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of another business associate. And in reference to the party to this Business Associate Agreement "Business Associate" shall mean Contractor.

- 1.3 "Covered Entity" has the same meaning as the term "covered entity" at 45 C.F.R. § 160.103, and in reference to the party to this Business Associate Agreement, "Covered Entity" shall mean County.
- 1.4 "Data Aggregation" has the same meaning as the term "data aggregation" at 45 C.F.R. § 164.501.
- 1.5 "De-identification" refers to the de-identification standard at 45 C.F.R. § 164.514.
- 1.6 "Designated Record Set" has the same meaning as the term "designated record set" at 45 C.F.R. § 164.501.
- 1.7 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its workforce. (See 45 C.F.R. § 160.103.)
- 1.8 "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff. (See 42 U.S. C. § 17921.)
- 1.9 "Electronic Media" has the same meaning as the term "electronic media" at 45 C.F.R. § 160.103. For the convenience of the parties, electronic media means (1) Electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media if the information being exchanged did not exist in electronic form immediately before the transmission.
- 1.10 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" at 45 C.F.R. § 160.103, limited to Protected Health Information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.

- 1.11 "Health Care Operations" has the same meaning as the term "health care operations" at 45 C.F.R. § 164.501.
- 1.12 "Individual" has the same meaning as the term "individual" at 45 C.F.R. § 160.103. For the convenience of the parties, Individual means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502 (g).
- 1.13 "Law Enforcement Official" has the same meaning as the term "law enforcement official" at 45 C.F.R. § 164.103.
- 1.14 "Minimum Necessary" refers to the minimum necessary standard at 45 C.F.R. § 164.502 (b).
- 1.15 "Protected Health Information" has the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, and includes Protected Health Information that is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Protected Health Information.
- 1.16 "Required by Law" " has the same meaning as the term "required by law" at 45 C.F.R. § 164.103.
- 1.17 "Secretary" has the same meaning as the term "secretary" at 45 C.F.R. § 160.103
- 1.18 "Security Incident" has the same meaning as the term "security incident" at 45 C.F.R. § 164.304.
- 1.19 "Services" means, unless otherwise specified, those functions, activities, or services in the applicable underlying Agreement, Contract, Master Agreement, Work Order, or Purchase Order or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.



- 1.20 "Subcontractor" has the same meaning as the term "subcontractor" at 45 C.F.R. § 160.103.
- 1.21 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" at 45 C.F.R. § 164.402.
- 1.22 "Use" or "Uses" means, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations. (See 45 C.F.R § 164.103.)
- 1.23 Terms used, but not otherwise defined in this Business Associate Agreement, have the same meaning as those terms in the HIPAA Rules.

## **2. PERMITTED AND REQUIRED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION**

- 2.1 Business Associate may only Use and/or Disclose Protected Health Information as necessary to perform Services, and/or as necessary to comply with the obligations of this Business Associate Agreement.
- 2.2 Business Associate may Use Protected Health Information for de-identification of the information if de-identification of the information is required to provide Services.
- 2.3 Business Associate may Use or Disclose Protected Health Information as Required by Law.
- 2.4 Business Associate shall make Uses and Disclosures and requests for Protected Health Information consistent with the Covered Entity's applicable Minimum Necessary policies and procedures.
- 2.5 Business Associate may Use Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities.
- 2.6 Business Associate may Disclose Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities, provided the Disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed (i.e., the recipient) 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 recipient and the recipient notifies Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.

- 2.7 Business Associate may provide Data Aggregation services relating to Covered Entity's Health Care Operations if such Data Aggregation services are necessary in order to provide Services.

**3. PROHIBITED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION**

- 3.1 Business Associate shall not Use or Disclose Protected Health Information other than as permitted or required by this Business Associate Agreement or as Required by Law.
- 3.2 Business Associate shall not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Sections 2.5 and 2.6.
- 3.3 Business Associate shall not Use or Disclose Protected Health Information for de-identification of the information except as set forth in section 2.2.

**4. OBLIGATIONS TO SAFEGUARD PROTECTED HEALTH INFORMATION**

- 4.1 Business Associate shall implement, use, and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information other than as provided for by this Business Associate Agreement.
- 4.2 Business Associate shall comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for by this Business Associate Agreement.

**5. REPORTING NON-PERMITTED USES OR DISCLOSURES, SECURITY INCIDENTS, AND BREACHES OF UNSECURED PROTECTED HEALTH INFORMATION**

- 5.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information not permitted by this Business Associate Agreement, any Security Incident, and/ or any Breach of Unsecured Protected Health Information as further described in Sections 5.1.1, 5.1.2, and 5.1.3.
- 5.1.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors not provided for by this Agreement of which Business Associate becomes aware.

- 5.1.2 Business Associate shall report to Covered Entity any Security Incident of which Business Associate becomes aware.
- 5.1.3 Business Associate shall report to Covered Entity any Breach by Business Associate, its employees, representatives, agents, workforce members, or Subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate, including a Subcontractor, as determined in accordance with the federal common law of agency.
- 5.2 Except as provided in Section 5.3, for any reporting required by Section 5.1, Business Associate shall provide, to the extent available, all information required by, and within the times frames specified in, Sections 5.2.1 and 5.2.2.
- 5.2.1 Business Associate shall make an immediate telephonic report upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information to **(562) 940-3335** that minimally includes:
- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
  - (b) The number of Individuals whose Protected Health Information is involved;
  - (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or 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);
  - (d) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach
- 5.2.2 Business Associate shall make a written report without unreasonable delay and in no event later than three (3) business days from the date of discovery by Business Associate of the non-permitted Use or Disclosure

of Protected Health Information, Security Incident, or Breach of Unsecured Protected Health Information and to the **Chief HIPAA Privacy Officer at: Hall of Records, County of Los Angeles, Chief Executive Office, Risk Management Branch-Office of Privacy, 320 W. Temple Street, 7<sup>th</sup> Floor, Los Angeles, California 90012, [PRIVACY@ceo.lacounty.gov](mailto:PRIVACY@ceo.lacounty.gov)**, that includes, to the extent possible:

- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
- (b) The number of Individuals whose Protected Health Information is involved;
- (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or 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);
- (d) The identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, Used, or Disclosed;
- (e) Any other information necessary to conduct an assessment of whether notification to the Individual(s) under 45 C.F.R. § 164.404 is required;
- (f) Any steps Business Associate believes that the Individual(s) could take to protect him or herself from potential harm from the non-permitted Use or Disclosure, Security Incident, or Breach;
- (g) A brief description of what Business Associate is doing to investigate, to mitigate harm to the Individual(s), and to protect against any further similar occurrences; and
- (h) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.

5.2.3 If Business Associate is not able to provide the information specified in Section 5.2.1 or 5.2.2 at the time of the required report, Business Associate shall provide such information promptly thereafter as such information becomes available.

- 5.3 Business Associate may delay the notification required by Section 5.1.3, if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security.
- 5.3.1 If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay its reporting and/or notification obligation(s) for the time period specified by the official.
- 5.3.2 If the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay its reporting and/or notification obligation(s) temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in Section 5.3.1 is submitted during that time.

## **6. WRITTEN ASSURANCES OF SUBCONTRACTORS**

- 6.1 In accordance with 45 C.F.R. § 164.502 (e)(1)(ii) and § 164.308 (b)(2), if applicable, Business Associate shall ensure that any Subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate is made aware of its status as a Business Associate with respect to such information and that Subcontractor agrees in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.
- 6.2 Business Associate shall take reasonable steps to cure any material breach or violation by Subcontractor of the agreement required by Section 6.1.
- 6.3 If the steps required by Section 6.2 do not cure the breach or end the violation, Contractor shall terminate, if feasible, any arrangement with Subcontractor by which Subcontractor creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate.
- 6.4 If neither cure nor termination as set forth in Sections 6.2 and 6.3 is feasible, Business Associate shall immediately notify County.
- 6.5 Without limiting the requirements of Section 6.1, the agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall require Subcontractor to contemporaneously notify Covered Entity in the event of a Breach of Unsecured Protected Health Information.
- 6.6 Without limiting the requirements of Section 6.1, agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall include a provision requiring Subcontractor to destroy, or in the alternative to return

- to Business Associate, any Protected Health Information created, received, maintained, or transmitted by Subcontractor on behalf of Business Associate so as to enable Business Associate to comply with the provisions of Section 18.4.
- 6.7 Business Associate shall provide to Covered Entity, at Covered Entity's request, a copy of any and all Subcontractor Business Associate Agreements required by Section 6.1.
- 6.8 Sections 6.1 and 6.7 are not intended by the parties to limit in any way the scope of Business Associate's obligations related to Subcontracts or Subcontracting in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

## **7. ACCESS TO PROTECTED HEALTH INFORMATION**

- 7.1 To the extent Covered Entity determines that Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within two (2) business days after receipt of a request from Covered Entity, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and shall provide such Individuals(s) or other person(s) designated by Covered Entity with a copy the specified Protected Health Information, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.524.
- 7.2 If any Individual requests access to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within two (2) days of the receipt of the request. Whether access shall be provided or denied shall be determined by Covered Entity.
- 7.3 To the extent that Business Associate maintains Protected Health Information that is subject to access as set forth above in one or more Designated Record Sets electronically and if the Individual requests an electronic copy of such information, Business Associate shall provide the Individual with access to the Protected Health Information in the electronic form and format requested by the Individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual.

**8. AMENDMENT OF PROTECTED HEALTH INFORMATION**

- 8.1 To the extent Covered Entity determines that any Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within ten (10) business days after receipt of a written request from Covered Entity, make any amendments to such Protected Health Information that are requested by Covered Entity, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.526.
- 8.2 If any Individual requests an amendment to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request. Whether an amendment shall be granted or denied shall be determined by Covered Entity.

**9. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION**

- 9.1 Business Associate shall maintain an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or Subcontractors, as is determined by Covered Entity to be necessary in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.
- 9.1.1 Any accounting of disclosures provided by Business Associate under Section 9.1 shall include:
- (a) The date of the Disclosure;
  - (b) The name, and address if known, of the entity or person who received the Protected Health Information;
  - (c) A brief description of the Protected Health Information Disclosed; and
  - (d) A brief statement of the purpose of the Disclosure.
- 9.1.2 For each Disclosure that could require an accounting under Section 9.1, Business Associate shall document the information specified in Section 9.1.1, and shall maintain the information for six (6) years from the date of the Disclosure.
- 9.2 Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of a written request from Covered Entity,



information collected in accordance with Section 9.1.1 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528

- 9.3 If any Individual requests an accounting of disclosures directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request, and shall provide the requested accounting of disclosures to the Individual(s) within 30 days. The information provided in the accounting shall be in accordance with 45 C.F.R. § 164.528.

## **10. COMPLIANCE WITH APPLICABLE HIPAA RULES**

- 10.1 To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity's performance of such obligation(s).
- 10.2 Business Associate shall comply with all HIPAA Rules applicable to Business Associate in the performance of Services.

## **11. AVAILABILITY OF RECORDS**

- 11.1 Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations.
- 11.2 Unless prohibited by the Secretary, Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

## **12. MITIGATION OF HARMFUL EFFECTS**

- 12.1 Business Associate shall mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement that is known to Business Associate.

## **13. BREACH NOTIFICATION TO INDIVIDUALS**

- 13.1 Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information by



Business Associate, its employees, representatives, agents or Subcontractors, provide breach notification to the Individual in a manner that permits Covered Entity to comply with its obligations under 45 C.F.R. § 164.404.

13.1.1 Business Associate shall notify, subject to the review and approval of Covered Entity, each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of any such Breach.

13.1.2 The notification provided by Business Associate shall be written in plain language, shall be subject to review and approval by Covered Entity, and shall include, to the extent possible:

- (a) A brief description of what happened, including the date of the Breach and the date of the Discovery of the Breach, if known;
- (b) A description of the types of Unsecured Protected Health Information 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);
- (c) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
- (d) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individual(s), and to protect against any further Breaches; and
- (e) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

13.2 Covered Entity, in its sole discretion, may elect to provide the notification required by Section 13.1 and/or to establish the contact procedures described in Section 13.1.2.

13.3 Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, in complying with Subpart D of 45 C.F.R. Part 164, including but not limited to costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information; Covered Entity shall not be responsible for any costs incurred by Business Associate in providing the notification required by 13.1 or in establishing the contact procedures required by Section 13.1.2.

**14. INDEMNIFICATION**

- 14.1 Business Associate shall indemnify, defend, and hold harmless Covered Entity, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, expenses (including attorney and expert witness fees), and penalties and/or fines (including regulatory penalties and/or fines), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement, including, but not limited to, compliance and/or enforcement actions and/or activities, whether formal or informal, by the Secretary or by the Attorney General of the State of California.
- 14.2 Section 14.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Insurance and/or Indemnification in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

**15. OBLIGATIONS OF COVERED ENTITY**

- 15.1 Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the Use or Disclosure of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own Uses and Disclosures accordingly.
- 15.2 Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except to the extent that Business Associate may Use or Disclose Protected Health Information as provided in Sections 2.3, 2.5, and 2.6.

**16. TERM**

- 16.1 Unless sooner terminated as set forth in Section 17, the term of this Business Associate Agreement shall be the same as the term of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 16.2 Notwithstanding Section 16.1, Business Associate's obligations under Sections 11, 14, and 18 shall survive the termination or expiration of this Business Associate Agreement.

**17. TERMINATION FOR CAUSE**

- 17.1 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and the breaching party has not cured the breach or ended the violation within the time specified by the non-breaching party, which shall be reasonable given the nature of the breach and/or violation, the non-breaching party may terminate this Business Associate Agreement.
- 17.2 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and cure is not feasible, the non-breaching party may terminate this Business Associate Agreement immediately.

**18. DISPOSITION OF PROTECTED HEALTH INFORMATION UPON TERMINATION OR EXPIRATION**

- 18.1 Except as provided in Section 18.3, upon termination for any reason or expiration of this Business Associate Agreement, Business Associate shall return or, if agreed to by Covered entity, shall destroy as provided for in Section 18.2, all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that Business Associate, including any Subcontractor, still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.
- 18.2 Destruction for purposes of Section 18.2 and Section 6.6 shall mean that media on which the Protected Health Information is stored or recorded has been destroyed and/or electronic media have been cleared, purged, or destroyed in accordance with the use of a technology or methodology specified by the Secretary in guidance for rendering Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals.
- 18.3 Notwithstanding Section 18.1, in the event that return or destruction of Protected Health Information is not feasible or Business Associate determines that any such Protected Health Information is necessary for Business Associate to continue its proper management and administration

- or to carry out its legal responsibilities, Business Associate may retain that Protected Health Information for which destruction or return is infeasible or that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities and shall return or destroy all other Protected Health Information.
- 18.3.1 Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information, including continuing to use appropriate safeguards and continuing to comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for in Sections 2.5 and 2.6 for so long as such Protected Health Information is retained, and Business Associate shall not Use or Disclose such Protected Health Information other than for the purposes for which such Protected Health Information was retained.
- 18.3.2 Business Associate shall return or, if agreed to by Covered entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for Business Associate's proper management and administration or to carry out its legal responsibilities.
- 18.4 Business Associate shall ensure that all Protected Health Information created, maintained, or received by Subcontractors is returned or, if agreed to by Covered entity, destroyed as provided for in Section 18.2.

## **19. AUDIT, INSPECTION, AND EXAMINATION**

- 19.1 Covered Entity reserves the right to conduct a reasonable inspection of the facilities, systems, information systems, books, records, agreements, and policies and procedures relating to the Use or Disclosure of Protected Health Information for the purpose determining whether Business Associate is in compliance with the terms of this Business Associate Agreement and any non-compliance may be a basis for termination of this Business Associate Agreement and the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, as provided for in section 17.
- 19.2 Covered Entity and Business Associate shall mutually agree in advance upon the scope, timing, and location of any such inspection.
- 19.3 At Business Associate's request, and to the extent permitted by law, Covered Entity shall execute a nondisclosure agreement, upon terms and conditions mutually agreed to by the parties.

- 19.4 That Covered Entity inspects, fails to inspect, or has the right to inspect as provided for in Section 19.1 does not relieve Business Associate of its responsibility to comply with this Business Associate Agreement and/or the HIPAA Rules or impose on Covered Entity any responsibility for Business Associate's compliance with any applicable HIPAA Rules.
- 19.5 Covered Entity's failure to detect, its detection but failure to notify Business Associate, or its detection but failure to require remediation by Business Associate of an unsatisfactory practice by Business Associate, shall not constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Business Associate Agreement or the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 19.6 Section 19.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Inspection and/or Audit and/or similar review in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

## **20. MISCELLANEOUS PROVISIONS**

- 20.1 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with the terms and conditions of this Business Associate Agreement will be adequate or satisfactory to meet the business needs or legal obligations of Business Associate.
- 20.2 HIPAA Requirements. The Parties agree that the provisions under HIPAA Rules that are required by law to be incorporated into this Amendment are hereby incorporated into this Agreement.
- 20.3 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 20.4 Construction. In the event that a provision of this Business Associate Agreement is contrary to a provision of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of the applicable underlying Agreement, Contract, Master Agreement, Work

Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

- 20.5 Regulatory References. A reference in this Business Associate Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- 20.6 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Rules.
- 20.7 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the HIPAA Rules and any other privacy laws governing Protected Health Information.

BUSINESS ASSOCIATE LISTING

**Business Associate Name:** \_\_\_\_\_

**Type of Services Provided:** \_\_\_\_\_

**Website URL:** \_\_\_\_\_

**First Point of Contact:**

**Title:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **E-mail:** \_\_\_\_\_

**Second Point of Contact:**

**Title:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **E-mail:** \_\_\_\_\_

## Medical Health Screening

All potential Contractor personnel shall complete to the satisfaction of County a medical health screening to determine if the person meets the medical criteria and immunizations standards established for the prospective job classification/assignment before commencing services. The Contractor shall use the DHS Forms and medical health screening methodology provided in the Contractor package.

The medical health screening shall be performed by a physician or other licensed healthcare professional (PLHCP) authorized to perform such a physical screening, with such cost at the expense of the Contractor. If the Contractor chooses to have the DHS Employee Health Services (EHS) perform such assessments and screening and such services are available, the Contractor will be billed for the services regardless if the Contractor's staff passes or fails the screening. Contractor personnel shall present a letter on Contractor letterhead authorizing personnel to obtain the screening from DHS' EHS. DHS EHS will bill the Contractor for the cost and/or deduct the amount from funds owed.

Contractor personnel shall provide DHS EHS with documentation of health screenings and evidence of the absence of communicable diseases using the County's "Health Clearance E2" forms. The forms must be signed by a healthcare provider attesting all information is true and accurate OR workforce member may supply all required source documents to DHS Employee Health Services to be verified.

The Contractor must provide DHS EHS with the source documents for review within four (4) hours of a request. Source documents pertaining to the pre-employment health evaluation, Tuberculosis, Respiratory Fit Testing, and other immunizations will be maintained by the Contractor. Failure to provide appropriate source documentation of health screenings/clearance will result in immediate release from assignment and there will be no further placement of Contractor's personnel until compliant.

DHS Facility Staff are required to ensure the Contractor personnel receives the appropriate documents; has submitted them to the facility EHS and has obtained health clearance prior to beginning the work assignment.

No person will be allowed to work at anytime inside a DHS medical facility without appropriate documentation of health screening. In those instances where persons have no demonstrated immunity, and have refused vaccination, a waiver to that effect must be obtained and on file. Lack of immunity to certain diseases will restrict assignment locations within the hospital.

All Contractor personnel who have potential exposure to respiratory hazards and/ or aerosol transmissible disease shall provide appropriate documentation of a respiratory fit test on the same make, model, style, and size of respirator that will be used in facility. If indicated, this requirement is mandatory annually.



## Medical Health Screening

Per County policy, Contractor personnel are required to comply with annual health screening. Unless provided for per contract, Contractor personnel shall have their PLHCP conduct the assessment in accordance with County policy and procedures. This documentation is the “E2 Health Clearance”. The workforce member will be provided with the necessary documentation for completion and submission to their PLHCP. The PLHCP will complete the documents and submit them to the Contractor, as appropriate, with the completed forms.

Contractor personnel will be given a 30-day reminder to comply with annual health screening requirements. Contractor personnel who do not comply with annual or other health screening requirements may be given a letter indicating they have five (5) days to comply or face release from assignment. A copy of the “letter” will be provided to the Contractor personnel’s supervisor for action. Failure to provide documentation of health screening/clearance will result in immediate release from assignment and no further placement until compliant.

Emergency services will be provided post-exposure to Contractor personnel who have potential exposure to occupational hazards within the allowable time frames, but will be billed to the Contractor, as appropriate. Contractor personnel who are exposed to occupational hazard or incur injury while performing their duties for the County will be reported on the OSHA Log 300/301, as required by state and federal regulation and guidelines.

In the event of an occupational needlestick injury or other exposure to Contractor personnel to blood and body fluids or airborne contaminants, medical care will be provided by the DHS EHS or Emergency Room, but will be billed to the Contractor, as appropriate. Contractor personnel may go to the facility DHS EHS or the designated department for initial care within the allowable treatment time frames. Cost of initial treatment will be billed to the Contractor, as appropriate. Subsequent follow-up treatment will be conducted through the appropriate agency’s medical provider or the employee’s personal physician. If Contractor chooses to have the DHS EHS provide subsequent follow-up care, the Contractor will be billed accordingly.