

COUNTY OF SISKIYOU
CONTRACT FOR SERVICES
FOR BOARD OF SUPERVISORS SIGNATURE

This Contract is entered into on the date when it has been both approved by the Board and signed by all other parties to it.

COUNTY: Siskiyou County Health and Human Services Agency
Behavioral Health Division
2060 Campus Drive
Yreka, CA 96097
(530) 841-4100 Phone
(530) 841-4133 Fax

And

CONTRACTOR: Yreka Police Department, for City of Yreka
Attn: Mark Gilman, Chief of Police
1400 Fairlane Rd.
Yreka, CA 96097
Phone: (530) 841-2300

ARTICLE 1. TERM OF CONTRACT

1.01 Contract Term: This Contract shall become effective on October 1, 2022 and shall terminate on June 30, 2023, unless terminated in accordance with the provisions of Article 7 of this Contract or as otherwise provided herein.

ARTICLE 2. INDEPENDENT CONTRACTOR STATUS

2.01 Independent Contractor: It is the express intention of the parties that CITY is an independent contractor and not an employee, agent, joint venture or partner of County. Nothing in this Contract shall be interpreted or construed as creating or establishing the relationship of employer and employee between County and CITY or any employee or agent of Contractor. Both parties acknowledge that CITY is not an employee for state or federal tax purposes. CITY shall retain the right to perform services for others during the term of this Contract.

Nothing in this Agreement, nor by virtue of entry of this Agreement itself, shall create a Joint Powers Agreement under Government Code § 6500, et. Seq., between CITY and SISKIYOU COUNTY wherein either CITY or County becomes liable for the act, omission, negligence, gross negligence, reckless or criminal act of the other entity. CITY is an independent contractor. Neither CITY nor any of CITY's officers, employees, agents or subcontractors, if any, is an employee of the County by virtue of this contract or performance of any work under this Agreement.

ARTICLE 3. SERVICES

3.01 Scope of Services: CITY agrees to furnish the following services:
CITY shall provide the services described in Exhibit "A" attached hereto.

No additional services shall be performed by CITY unless approved in advance in writing by the County stating the dollar value of the services, the method of payment, and any adjustment in contract time or other contract terms. All such services are to be coordinated with County and the results of the work shall be monitored by the Health and Human Services Agency Director (SCHHSA) or his or her designee.

To the extent that Exhibit A contains terms in conflict with this Contract or to the extent that it seeks to supplement a provision regarding a subject already fully addressed in this Contract, including a clause similar to this seeking to render its language superior to conflicting language in this Contract, such language is hereby expressly deemed null and void by all parties upon execution of this Contract.

- 3.02 Method of Performing Services:** CITY will determine the method, details, and means of performing the above-described services including measures to protect the safety of the traveling public and CITY's employees. County shall not have the right to, and shall not, control the manner or determine the method of accomplishing CITY's services.
- 3.03 Employment of Assistants:** CITY may, at the CITY's own expense, employ such assistants as CITY deems necessary to perform the services required of CITY by this Contract. County may not control, direct, or supervise CITY's assistants or employees in the performance of those services.

ARTICLE 4. COMPENSATION

- 4.01 Compensation:** In consideration for the services to be performed by CITY, County agrees to pay CITY in proportion to services satisfactorily performed as specified in Exhibit "A". Payment shall not exceed the amount appropriated by the Board of Supervisors for such services for the fiscal year. Should the compensation prove insufficient to provide all services, this Agreement may be amended to provide additional compensation, or CITY shall be relieved from further duties hereunder.

The Parties agree that the total compensation payable under this Agreement is \$160,000.00. Twelve (12) monthly invoices at \$13,333.00, for staff time and materials.

- 4.02 Invoices:** CITY shall submit original detailed invoices for all services being rendered.
- 4.03 Date for Payment of Compensation:** County shall pay within 30 days of receipt of invoices from the CITY to the County, and approval and acceptance of the work by the County.
- 4.04 Expenses:** CITY shall be responsible for all overhead costs and expenses incident to the performance of services for County, including but not limited to, all costs of materials, equipment, all fees, fines, licenses, bonds or taxes required of or imposed against CITY and all other of CITY's costs of doing business. County

shall not be responsible for any overhead expense incurred by CITY in performing services for County except for: 1) Personnel costs, including but not limited to, salary and benefits, plus any additional hours of overtime compensation. The cost of the FTE and overtime compensation shall be adjusted, from time to time, to reflect any change in the FTE's compensation, overtime, and benefits; 2) the cost of a vehicle based on the State of California Labor Surcharge and Equipment Rental Rates for cars; 3) the reasonable rental value of the use that require rental payment to provide the services together with replacement cost of any equipment or repair cost of any facilities.

County shall not be responsible for and shall not be required to compensate CITY for any amount that exceeds the monthly amount of \$13,333.00 as detailed in paragraph 4.01 above. CITY shall be solely responsible for payment of any amount in excess of the total compensation payable under this Agreement as detailed in paragraph 4.01.

ARTICLE 5. OBLIGATIONS OF CONTRACTOR

- 5.01 Contractor Qualifications:** CITY warrants that CITY has the necessary licenses, experience and technical skills to provide services under this Contract. City does not warrant that it possesses any special qualifications for recognizing mental health or drug addiction as these skill sets are within COUNTY'S experience and training.
- 5.02 Contract Management:** CITY shall report to the Health and Human Services Agency Director or his or her designee who will review the activities and performance of the CITY and administer this Contract.
- 5.03 Tools and Instrumentalities:** CITY will supply all tools and instrumentalities required to perform the services under this Contract. CITY is not required to purchase or rent any tools, equipment or services from County.
- 5.04 Workers' Compensation:** CITY shall maintain a workers' compensation plan covering all its employees as required by California Labor Code Section 3700, either through workers' compensation insurance issued by an insurance company or through a plan of self-insurance certified by the State Director of Industrial Relations. If CITY elects to be self-insured, the certificate of insurance otherwise required by this Contract shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations. Proof of such insurance shall be provided before any work is commenced under this contract. No payment shall be made unless such proof of insurance is provided.
- 5.05 Indemnification:** The Parties shall indemnify and hold each other harmless against any and all liability imposed or claimed, including attorney's fees and other legal expenses, arising directly or indirectly from any act or failure of the Parties, their employees, or agents, including all claims relating to the injury or death of any person or damage to any property arising out of the performance of this Agreement. It is understood that the duty of either Party to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California

Civil Code. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether any applicable insurance policies shall have been determined to apply. By execution of this Agreement, the Parties acknowledge and agree to the provisions of this Section and that it is a material element of consideration of this Agreement.

- 5.06 General Liability and Automobile Insurance:** During the term of this Agreement City warrants that it does and will keep all its vehicles insurance in an amount of at least One Million Dollars combined liability for bodily injury and property damage by entities authorized to do business in the State of California.
- 5.07 Certificate of Insurance and Endorsements:** CITY shall obtain and file with the County prior to engaging in any operation or activity set forth in this Contract, certificates of insurance evidencing additional insured coverage as set forth in paragraphs 5.04 and 5.10 and which shall provide that no cancellation, reduction in coverage or expiration by the insurance company will be made during the term of this Contract, without thirty (30) days written notice to County prior to the effective date of such cancellation. Naming the County as a "Certificate Holder" or other similar language is NOT sufficient satisfaction of the requirement. Prior to commencement of performance of services by CITY and prior to any obligations of County, CITY shall file certificates of insurance with County showing that CITY has in effect the insurance required by this Contract. CITY shall file a new or amended certificate on the certificate then on file. If changes are made during the term of this Contract, no work shall be performed under this agreement, and no payment may be made until such certificate of insurance evidencing the general liability policy set forth in 5.06 and 5.10 are provided to County.
- 5.08 Public Employees Retirement System (CalPERS):** In the event that CITY or any employee, agent, or subcontractor of CITY when providing services pursuant to this Agreement is determined by a court of competent jurisdiction or the Public Employees Retirement System (CalPERS) to be eligible for enrollment in CalPERS as an employee of the County, except when that person becomes an employee of COUNTY, CITY shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions of CalPERS benefits on behalf of CITY or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County. CITY understands and agrees that its personnel are not, and will not be, eligible for memberships in, or any benefits from, any County group plan for hospital, surgical or medical insurance, or for membership in any County retirement program, or for paid vacation, paid sick leave, or other leave, with or without pay, or for any other benefit which accrues to a County employee.
- 5.09 IRS/FTB Indemnity Assignment:** CITY shall defend, indemnify, and hold harmless the County, its officers, agents, and employees, from and against any adverse determination made by the Internal Revenue Service of the State Franchise Tax Board with respect to CITY's "independent contractor" status that would establish a liability for failure to make social security and income tax withholding payments.

5.08 Professional Liability: If CITY or any of its officers, agents, employees, volunteers, contactors or subcontractors are required to be professionally licensed or certified by any agency of the State of California in order to perform any of the work or services identified herein, CITY shall procure and maintain in force throughout the duration of the Contract a professional liability insurance policy with a minimum coverage level of (\$1,000,000) One Million Dollars, or as determined in writing by County's Risk Management Department.

5.10 State and Federal Taxes: As CITY is not County's employee, CITY is responsible for paying all required state and federal taxes.

In particular:

- a. County will not withhold FICA (Social Security) from CITY's payments;
- b. County will not make state or federal unemployment insurance contributions on behalf of CITY.
- c. County will not withhold state or federal income tax from payment to CITY.
- d. County will not make disability insurance contributions on behalf of CITY.
- e. County will not obtain workers' compensation insurance on behalf of CITY.

5.11 Contractor's Books and Records: CITY shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the County for a minimum of five (5) years, or for any longer period required by law, from the date of final payment to the CITY under this Contract. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the County.

5.12 Assignability of Contract: It is understood and agreed that this Contract contemplates personal performance by the CITY and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the CITY under this Contract will be permitted only with the express written consent of the County.

5.13 Warranty of Contractor: CITY warrants that it, and each of its personnel, where necessary, are properly certified and licensed under the laws and regulations of the State of California to provide the special services agreed to.

5.14 Withholding for Non-Resident Contractor: Pursuant to California Revenue and Taxation Code Section 18662, payments made to nonresident independent contractors, including corporations and partnerships that do not have a permanent place of business in this state, are subject to 7 percent state income tax withholding. Withholding is required if the total yearly payments made under this contract exceed \$1,500.00.

Unless the Franchise Tax Board has authorized a reduced rate or waiver of withholding and County is provided evidence of such reduction/waiver, all nonresident contractors will be subject to the withholding. It is the responsibility of the Contractor to submit the Waiver Request (Form 588) to the Franchise Tax Board as soon as possible in order to allow time for the Franchise Tax Board to review the request.

- 5.15 Compliance with Child, Family and Spousal Support Reporting Obligations:** CITY's failure to comply with state and federal child, family and spousal support reporting requirements regarding CITY's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family and spousal support obligations shall constitute a default under this Contract. CITY's failure to cure such default within ninety (90) days of notice by County shall be grounds for termination of this Contract.
- 5.16 Conflict of Interest:** CITY covenants that it presently has no interest and shall not acquire an interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. CITY further covenants that, in the performance of this Contract, no subcontractor or person having such an interest shall be used or employed. CITY certifies that no one who has or will have any financial interest under this contract is an officer or employee of County.
- 5.17 Compliance with Applicable Laws:** CITY shall comply with all applicable federal, state and local laws now or hereafter in force, and with any applicable regulations, in performing the work and providing the services specified in this Contract. This obligation includes, without limitations, the acquisition and maintenance of any permits, licenses, or other entitlements necessary to perform the duties imposed expressly or impliedly under this Contract.
- 5.18 Bankruptcy:** CITY shall immediately notify County in the event that CITY ceases conducting business in the normal manner, becomes insolvent, makes a general assignment for the benefit of creditors, suffer or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors.
- 5.19 Health Insurance Portability and Accountability Act (HIPAA):** CITY agrees to the terms and conditions set forth in the "Business Associates Agreement" attached hereto as Exhibit "C" and those terms and conditions are hereby incorporated into the Contract by reference. Additionally, CITY shall comply with, and assist SCHHSA in complying with, the privacy and security requirements of the Health Insurance Portability and Accountability Act (HIPAA), as follows.
- A. Use or Disclosure of Protected Health Information:** CITY may use or disclose protected health information (PHI) to perform its obligations under the Contract, provided that such use or disclosure does not violate this Agreement, is not prohibited by the Health Insurance Portability and Accountability Act (HIPAA) including, but not limited to, the provisions of Title 42, United States Code, Section 1320d et seq. and Title 45, Code of Federal Regulations (C.F.R.),

Parts 142, 160, 162 and 164, or does not exceed the scope of how County could use or disclose the information.

CITY shall not use, disclose or allow the disclosure of PHI except as permitted herein or as required or authorized by law. CITY shall implement appropriate safeguards to prevent use or disclosure of PHI other than as provided herein. At the request of and in the time and manner designated by County, CITY shall provide access to PHI in a designated record set as required by 45 C.F.R. Section 164.524. CITY shall report to County any use or disclosure of PHI not provided for herein or HIPAA regulations.

If CITY provides PHI to a third party, including officers, agents, employees, volunteers, contractors and subcontractors, pursuant to the terms of the Contract, CITY shall ensure that the third party complies with all HIPAA regulations and the terms set forth herein.

- B. Documentation and Accounting of Uses and Disclosures:** CITY shall document any disclosures of PHI in a manner that would allow County to respond to a request for an accounting of disclosures of PHI in accordance with 45 C.F.R. Section 164.528. CITY shall provide County, in a time and manner designated by County, all information necessary to respond to a request for an accounting of disclosures of PHI.
- C. Amendments to Designated Record Sets:** In accordance with 45 C.F.R. Section 164.526, CITY agrees to amend PHI in its possession as requested by an individual or as directed by County, in a time and manner designated by County.
- D. Access to Records:** CITY shall make available to County or the Secretary of the United States Department of Health and Human Services (HHS), in the time and manner designated by County or HHS, any records related to the use, disclosure and privacy protections of PHI for the purpose of investigating or auditing County's compliance with HIPAA regulations.
- E. Termination of Agreement:** Upon County's knowledge of a material breach of these provisions or HIPAA regulations, County shall, at its option, either provide CITY with an opportunity to cure the breach or immediately terminate this Contract. If CITY is given an opportunity to cure the breach but fails to do so within the time specified by County, County may terminate the Contract without further notice.
- F. Destruction of PHI:** Upon termination of this Contract, CITY shall return to County all PHI required to be retained and return or destroy all other PHI to comply with HIPAA regulations. This provision shall apply to PHI in the possession of CITY's officers, agents, employees, volunteers, contractors and subcontractors who shall retain no copies of the PHI. If CITY determines that returning or destroying the PHI is not feasible, CITY shall provide County with notice specifying the conditions that make return or destruction not feasible. If County agrees that return of the PHI is not feasible, CITY shall continue to extend the protections of this provision to the PHI for so long as CITY or its

officers, agents, employees, volunteers, contractors or subcontractors maintain such PHI.

- 5.20 Nondiscrimination:** CITY agrees to the terms and conditions set forth in the "Nondiscrimination in State and Federally-Assisted Programs" addendum, attached hereto as Exhibit "B" and those terms and conditions are hereby incorporated into the Contract by reference.
- 5.21 Grievance Procedure:** If CITY is required by ordinance, regulation, policy, the California Department of Social Services, County or other authority to have a procedure for filing and considering grievances, CITY shall provide County with a copy of CITY's grievance procedure prior to providing services under this Contract.
- 5.22 Child Abuse and Neglect Reporting:** CITY shall comply with all state and federal laws pertaining to the reporting of child abuse and/or neglect. CITY's officers, employees, agents and volunteers shall report all known or suspected instances of child abuse and/or neglect to the Child Protective Services agency or other agency as required by Penal Code Section 11164 et seq.
- 5.23 Confidentiality:** All information and records obtained in the course of providing services under this Agreement shall be confidential in accordance with applicable State and Federal law. SCHHSA and CITY agree to maintain and will require their officers, employees, agents, volunteers, contractors and sub-contractors to maintain the confidentiality of any applicant for or recipient of public social services. All records concerning any applicant or participant shall be confidential and shall not be open to examination for any purpose not directly connected with the purpose of this Agreement. No person shall publish or disclose, or use or permit, or cause to be published, disclosed or used, any confidential information pertaining to any applicant for or recipient of public social services.
- 5.24 Patients' Rights:** It is not anticipated that will be caring for patients or interacting with any patient's guardian or conservator. In the event that CITY does accept "patients," CITY shall give the patients notice of their rights pursuant to and in compliance with: California Welfare and Institutions Code Section 5328; California Administrative Code, Title 9, Chapter 1, Subchapter 4, Article 6. In addition, in all facilities providing the services described herein, the CITY shall have prominently posted in the predominant languages of the community a list of the patient's rights.

ARTICLE 6. OBLIGATIONS OF COUNTY

- 6.01 Cooperation of County:** County agrees to comply with all reasonable requests of CITY to provide COUNTY services and to provide reasonable access to documents and information, as permitted by law, necessary to the performance of CITY's duties under this Contract and COUNTY's obligations as the local agency with jurisdiction over Mental Health and other human public health issues.

ARTICLE 7. TERMINATION

- 7.01** Termination on Occurrence of Stated Events: This Contract shall terminate automatically on the occurrence of any of the following events:
1. Bankruptcy or insolvency of CITY
 2. Death of Contractor
- 7.02** Termination by County for Default of Contractor: Should CITY default in the performance of this Contract or materially breach any of its provisions, County, at County's option, may terminate this Contract by giving written notification to CITY.
- 7.03** Termination by Parties: Either party may terminate this Contract at any time by providing a notice in writing to the other party that the Contract is terminated. Said Contract shall then be deemed terminated and no further work shall be performed by CITY. If the Contract is so terminated, the CITY shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time of notice of termination is received.
- 7.04** Termination of Funding: County may terminate this Contract in any fiscal year in that it is determined there is not sufficient funding. California Constitution Article XVI Section 18. Termination shall not affect the duty to pay for services rendered prior to SCHHSA's notice to CITY of such lack of funding.

ARTICLE 8. GENERAL PROVISIONS

- 8.01** Notices: Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid or return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this Contract, but each party may change the address by written notice in accordance with the paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of two (2) days after mailing.
- 8.02** Entire Agreement of the Parties: This contract supersedes any and all contracts, either oral or written, between the Parties hereto with respect to the rendering of services by CITY for County and contains all the covenants and contracts between the parties with respect to the enduring of such services in any manner whatsoever. Each Party to this Contract acknowledges that no representations, inducements, promises, or contract, orally or otherwise, have been made by any party, or anyone acting on behalf of any Party, which are not embodied herein, and that no other contract, statement, or promise not contained in this Contract shall be valid or binding. Any modification of this Contract will be effective only if it is in writing signed by the Party to be charged and approved by the County as provided herein or as otherwise required by law.

- 8.03** Partial Invalidity: If any provision in this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision will nevertheless continue in full force without being impaired or invalidated in any way.
- 8.04** Attorney's Fees: If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Contract, the prevailing Party will be entitled to reasonable attorney's fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.
- 8.05** Conformance to Applicable Laws: CITY shall comply with the standard of care regarding all applicable federal, state and county laws, rules and ordinances. CITY shall not discriminate in the employment of persons who work under this contract because of race, the color, national origin, ancestry, disability, sex or religion of such person.
- 8.06** Waiver: In the event that either County or CITY shall at any time or times waive any breach of this Contract by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Contract, whether of the same or any other covenant, condition or obligation.
- 8.07** Governing Law: This Contract and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Contract shall be brought exclusively in the Superior Court of California for the County of Siskiyou. If there arises a dispute between the two parties regarding venue in Siskiyou County, the Superior Court of California for the County of Siskiyou shall determine the most appropriate venue. Any such determination shall be governed by CCP §394(a).
- 8.08** Reduction of Consideration: CITY agrees that County shall have the right to deduct from any payments contracted for under this Contract any amount owed to County by CITY as a result of any obligation arising prior or subsequent to the execution of this contract. For purposes of this paragraph, obligations arising prior to the execution of this contract may include, but are not limited to any property tax, secured or unsecured, which tax is in arrears. If County exercises the right to reduce the consideration specified in this Contract, County shall give CITY notice of the amount of any off-set and the reason for the deduction.
- 8.09** Negotiated Contract: This Contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Contract within the meaning of California Civil Code Section 1654. Each party hereby represents and warrants that in executing this Contract it does so with full knowledge of the rights and duties it may have with respect to the other. Each party also represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this Contract and the rights and duties arising out of this Contract, or that such party willingly foregoes any such consultation.
- 8.10** Time is of the Essence: Time is of the essence in the performance of this Contract.

- 8.11** Materiality: The parties consider each and every term, covenant, and provision of this Contract to be material and reasonable.
- 8.12** Authority and Capacity: CITY and CITY's signatory each warrant and represent that each has full authority and capacity to enter into this Contract.
- 8.13** Binding on Successors: All of the conditions, covenants and terms herein contained shall apply to, and bind, the heirs, successors, executors, administrators and assigns of CITY. CITY and all of CITY's heirs, successors, executors, administrators, and assigns shall be jointly and severally liable under the Contract.
- 8.14** Cumulation of Remedies: All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and no one of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.
- 8.15** No Reliance On Representations: Each party hereby represents and warrants that it is not relying, and has not relied upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this Contract, may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this Contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.
- 8.16** Electronic Communications: During the course of the performance of Services, communications may occur through sending, receiving or exchanging electronic versions of documents and e-mails using commercially available computer software and Internet access. County and the City acknowledge that the Internet is occasionally victimized by the creation and dissemination of so-called viruses, or similar destructive electronic programs. County and the City view the issues raised by these viruses seriously and have invested in document and e-mail scanning software that identify and reject files containing known viruses. Each party agrees to update its system with the software vendor's most current releases at regular intervals. Because of the virus scanning software, the respective computer systems of the parties may occasionally reject a communication. The parties acknowledge that this occurrence is to be expected as part of the ordinary course of business. Because the virus protection industry is generally one or two steps behind new viruses, neither party can guarantee that its respective communications and documents will be virus free. Occasionally, a virus will escape and go undetected as it is passed from system to system. Although each party will use all reasonable efforts to assure that its

communications are virus free, neither party warrants that its documents will be virus free. Each party agrees to advise the other if it discovers a virus in its respective system that may have been communicated to the other party.

IN WITNESS WHEREOF, County and CITY have executed this agreement on the dates set forth below, each signatory represents that they have the authority to execute this agreement and to bind the Party on whose behalf their execution is made.

COUNTY OF SISKIYOU:

Date: _____

ED VALENZUELA, CHAIR
Board of Supervisors
County of Siskiyou
State of California

ATTEST:
LAURA BYNUM
Clerk, Board of Supervisors

By: _____
Deputy

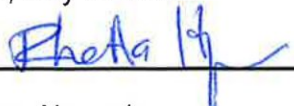
CONTRACTOR:
CITY OF YREKA

Date: March 7, 2023



COREY MIDDLETON, MAYOR

ATTEST:
RHETTA HOGAN
Clerk, City of Yreka

By: 

License No.: n/a

(Licensed in accordance with an act providing for the registration of contractors)

Note to Contractor: For corporations, the contract must be signed by two officers. The first signature must be that of the chairman of the board, president or vice-president; the second signature must be that of the secretary, assistant secretary, chief financial officer or assistant treasurer. (Civ. Code, Sec. 1189 & 1190 and Corps. Code, Sec. 313.)

TAXPAYER I.D. On File

ACCOUNTING:

Fund	Organization	Account	Activity Code	NTE
2129	401031	723000	163	\$160,000.00

Encumbrance number

Exhibit "A"

I. **Scope of Services:**

The Yreka Police Department Homeless Liaison Officer will follow the Yreka Police Department Homeless Persons policy, 424, Attachment 'A1'.

Duties and Responsibilities

The Yreka Police Department Homeless Liaison Officer is responsible for making connections between those experiencing homelessness and the resources available to further their specific housing/service goals. This includes, but is not limited to, making referrals to providers of housing/shelter programs, mental health treatment, substance use treatment, mainstream benefits, education, and employment training. Because the Homeless Liaison Officer does not possess the training, education or qualifications to maintain a level of skill and knowledge equivalent to that required for the Behavioral Health Specialist position within HHSA, the officer will work in close coordination with a Behavioral Health Specialist from HHSA who provides crisis support, case management, and rehabilitation skills. The Homeless Liaison's initial duties will include:

1. Working a typical day shift patrol duty. The primary responsibility will be to respond to homeless and mental health related calls for service.
2. Contacting the unhoused and attempting to establish a rapport.
3. Offering reasonable support to the target population and learning about their needs/concerns.
4. Patrolling areas of the unhoused campsites and known resting locations.
5. Providing referrals to mental health evaluations.
6. Maintaining partnerships with willing providers and current knowledge of available resources for those who are homeless.
7. Educating the target population on the resources available to those experiencing homelessness.
8. Sharing insights regarding the needs of the target population with the CoC Advisory Board.
9. Participating in the Homeless Multidisciplinary Team as requested by HHSA.
10. Assisting with the annual Point-in-Time Counts as requested by the CoC Advisory Board.
11. Collect program data as appropriate as well as updating the CoC board with the data.

The Homeless Liaison Officer will receive support from other CITY and COUNTY staff in completing the above assignments. The Yreka Police Department (YPD) plans to initially assign part-time Police Officers to this project as often as the Department's capacity allows. After the program is established, YPD intends to fill the position with full time Police Officer(s), as funding allows. The Homeless Liaison Officer and team members on the project will work under the supervision of the Chief of Police.

Staffing and Vehicle

The Yreka Police Department shall commit to 312 hours per month, 3,744 hours per year. These labor hours will be broken into four (4) categories: the assigned Homeless Liaison Officer at 1560 hours per year; the assistant Homeless Liaison Officer at 624 hours per year; Level 1 Reserve Police officers shall be assigned to assist for 1,040 hours per year; and full time patrol Police Officers shall be assigned to 520 hours per year assisting on overtime.

In addition to the planned work hours listed above, a vehicle shall be assigned to the Homeless Liaison Officer, the annual cost for this vehicle shall be \$9,250.00 to be reimbursed by COUNTY.

The listed hours and vehicle costs are slightly over the threshold provided by the MOU. These hours will be monitored by the Homeless Liaison Supervisor and may be adjusted to support emergency situations or miscellaneous needs as they arise, to include staffing warming shelters, supporting fire evacuations, training, etc. Notwithstanding the projected hourly allocation above, the Homeless Liaison Supervisor will monitor and adjust hours as needed to stay within budget unless excused by COUNTY.

Training

The Homeless Liaison Officer will receive training from the Behavioral Health Division of HHS, California Peace Officer Standards and Training (POST) approved trainers, as well as other relevant and approved trainings as needed. The Homeless Liaison Officer will be required to complete the POST approved course of instruction within one year of accepting the assignment. For example, the Anaheim Police Department has successfully developed courses for a similar role that may be utilized.

II. Compensation

The Yreka Police Department agrees to monitor the hours worked and include the hours in the monthly reports presented at the CoC meetings. Billing shall reflect only the hours dedicated to the program. If costs exceed the amount provided by this MOU the City may adjust its hours committed to the Agreement or, in its sole discretion, be paid by the Yreka Police Department overtime or other departmental budget.

- 1. The Total compensation payable under this agreement is \$160,000.00, Twelve (12) monthly invoices at \$13,333.00, for staff time and materials.**
2. CITY shall provide original detailed invoices to SCHHSA BHS within 30 days following the month of service. SCHHSA BHS shall pay within 30 days of receipt of invoices from CITY and approval and acceptance of the work by BHS.

Attachment 'A1'
Policy 424 - Yreka Police Department
Yreka PD Policy Manual
Homeless Persons

424.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The Yreka Police Department recognizes that members of the homeless community are often in need of special protection and services. The Yreka Police Department will address these needs in balance with the overall mission of this department. Therefore, officers will consider the following when serving the homeless community.

424.1.1 POLICY

It is the policy of the Yreka Police Department to provide law enforcement services to all members of the community, while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this department will not use homelessness solely as a basis for detention or law enforcement action.

424.2 HOMELESS COMMUNITY LIAISON

The Chief of Police will designate a member of this department to act as the Homeless Liaison Officer. The responsibilities of the Homeless Liaison Officer include the following:

- (a) Maintain and make available to all department employees a list of assistance programs and other resources that are available to the homeless.
- (b) Meet with social services and representatives of other organizations that render assistance to the homeless.
- (c) Maintain a list of the areas within and near this jurisdiction that are used as frequent homeless encampments.
- (d) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include as set out by city ordinance:
 - 1. Proper posting of notices of trespass and clean-up operations.
 - 2. Proper retention of property after clean-up, to include procedures for owners to reclaim their property in accordance with the Property and Evidence Policy and other established procedures.
- (e) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure that the rights of the homeless are not violated.
- (f) Develop training to assist officers in understanding current legal and social issues relating to the homeless.

424.3 FIELD CONTACTS

Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest. Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent that such services may be appropriate.

424.3.1 OTHER CONSIDERATIONS

CITY will not discriminate against homeless members of the community as to the level and quality of service as may be provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.
- (b) Document places the homeless person may frequent.
- (c) Provide homeless victims with victim/witness resources when appropriate.
- (d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.
- (e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Adult Abuse Policy.
- (f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
- (g) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

424.4 PERSONAL PROPERTY

The personal property of homeless persons is not in violation of law their personal property will be treated similarly to the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person. When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the personal property should be collected as provided by ordinance. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

In the discretion of the city's chain of command, officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the department Homeless Liaison Officer. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the Homeless Liaison Officer.

Officers who encounter unattended encampments which are not otherwise in violation of law, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the department Homeless Liaison Officer if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the Homeless Liaison Officer to address the matter in a timely fashion as the budget permits.

424.5 MENTAL ILLNESS AND MENTAL IMPAIRMENT

Some homeless persons may suffer from a mental illness or a mental impairment. Officers should not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (see the Crisis Intervention Incidents Policy).

When a mental illness hold is not warranted in the officer's opinion, the contacting officer should provide the homeless person with contact information for mental health assistance as appropriate. In these circumstances, officers may provide transportation to a mental health specialist if requested by the person and approved by a supervisor and if permitted by city

policy and its insurance obligations.

424.6 ECOLOGICAL ISSUES

Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

Exhibit "B"

ASSURANCE OF COMPLIANCE WITH THE SISKIYOU COUNTY HEALTH AND HUMAN SERVICES AGENCY – BEHAVIORAL HEALTH DIVISION NONDISCRIMINATION IN STATE AND FEDERALLY – ASSISTED PROGRAMS

CONTRACTOR HEREBY AGREES THAT it will comply with the nondiscrimination provisions of this contract as further described below and referenced in the California Department of Health Care Services Specialty Mental Health Services Agreement Exhibit E, Section 3 -

1) Consistent with the requirements of applicable federal law such as 42 C.F.R. §§ 438.6(d)(3) and (4) or state law, the Contractor shall not engage in any unlawful discriminatory practices in the admission of beneficiaries, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, religion, marital status, national origin, age, sexual preference or mental or physical handicap. The Contractor will not discriminate against beneficiaries on the basis of health status or need for health care services, pursuant to 42 C.F.R. § 438.6(d)(3).

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

Contractor agrees this assurance is binding on the vendor/recipient directly or through contract, license, or other provider services, as long as it received federal or state assistance.

Exhibit "C"

BUSINESS ASSOCIATES AGREEMENT UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

Siskiyou County Health and Human Services Agency, Behavioral Health Division ("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 Siskiyou County Health and Human Services Agency, Behavioral Health Division.
- 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. § 162.502 (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 **Health and Human Services Agency Privacy Officer at: Dee Barton, Privacy Officer, Siskiyou County Health and Human Services Agency, 2060 Campus Drive, Yreka, CA 96097, dbarton1@co.siskiyou.ca.us, Phone: (530) 841-4805, Fax: (530) 841-4133**, 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 assess 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 CalMHSA.
- 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 Individual(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, Participation Agreement, 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, Participation Agreement, 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, Participation Agreement, 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, Participation Agreement, 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.