

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

This Contract (hereafter referred to as "Contract") for special services is entered into by and between the County of San Luis Obispo (hereafter referred to as "County"), a public entity and legal subdivision of the State of California, and Children and Families Commission a political subdivision of the State of California, pursuant to Health and Safety Code section 130140.1, (hereafter referred to as "Contractor") for the benefit of the Medi-Cal Administrative Activities Program (MAA)

WHEREAS, the County has a need for services, as more particularly described in Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, Contractor is specially trained, experienced, expert, and competent to perform such services; and

WHEREAS, the County has not previously used County Civil Service or other Contract employees to provide the services herein described; and

WHEREAS, Contractor and the County of San Luis Obispo enter into this Contract defining the relationships and responsibilities of the parties to this Contract.

NOW THEREFORE, in consideration for the promises, obligations, and covenants contained herein, the parties agree as follows:

1. **Scope of Services**. Contractor agrees to provide the Scope of Services set out in Exhibit A attached hereto and incorporated herein by reference.
2. **Compensation and Billing for Services**. Contractor shall be compensated by County for performing said services in accordance with Exhibit B attached hereto and incorporated herein by reference.
3. **Term of Contract**. The effective date and duration of this Contract shall be as specified in Exhibit C attached hereto and incorporated herein by reference.
4. **General Conditions**. Contractor and County shall comply with all applicable provisions of the General Conditions, attached hereto as Exhibit D and incorporated herein by reference.
5. **Special Conditions**. Contractor and County shall comply with all applicable provisions of the Special Conditions attached hereto as Exhibit E and incorporated herein by reference. In the event of conflicts between the provisions of the General Conditions and the Special Conditions, the provisions of the Special Conditions shall be controlling.
6. **Business Associate Agreement**. Contractor and County shall comply with all applicable provisions of the Business Associate Agreement attached hereto as Exhibit F and incorporated herein by reference.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

7. **Grantor/State Special Conditions.** Contractor and County shall comply with all applicable provisions of the Standard Agreement attached hereto as Exhibit G and incorporated herein by reference. In the event of conflict between provisions of County General or Special Conditions and Grantor/State Special Conditions, the provisions of Grantor/State Special Conditions shall be controlling.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

IN WITNESS WHEREOF County and Contractor have executed this Contract on the day and year hereinabove set forth.

CONTRACTOR:

Children and Families Commission of San Luis Obispo County
a political subdivision of the State of California

Tax ID: Held in Confidential File

By: _____

Date: _____

Printed Name: _____

Title: _____

By: _____

Date: _____

Printed Name: _____

Title: _____

Approved as to form and legal effect:

RITA L. NEAL
COUNTY COUNSEL

By: _____
Deputy County Counsel

_____ Date

NATALIE FRYE-LAACKE
First 5 San Luis Obispo County Legal Counsel

By: _____
First 5 Counsel

_____ Date

COUNTY OF SAN LUIS OBISPO,
A Public Entity in the State of California

By: _____
Purchasing Agent

_____ Date

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

EXHIBIT A – INDEPENDENT CONTRACTOR
SCOPE OF SERVICES

1. Contractor Responsibilities:

- a. Perform Medi-Cal Administrative Activities (MAA) on behalf of Federal Medicaid, the State and County to assist in the proper and efficient administration of the Medi-Cal Program by improving the availability and accessibility of Medi-Cal services to Medi-Cal eligible and potentially eligible individuals, and their families (where appropriate) serviced by the Contractor.
- b. Document the activities of staff performing MAA in accordance with established Federal and State guidelines. The following Medi-Cal Administrative Activities (MAA) are eligible for Federal Financial Participation (FFP) only when they are identified in a MAA Claiming Plan approved by the State Department of Health Care Services (DHCS):
 - i. Perpetual Time Survey: The participants are required to complete a time survey or functional time sheet, or equivalent, every work day of each quarter to capture 100 percent of their time. A functional time sheet collects all information relative to the program claims by tracking and delineating (by function or program) an employee's work time and the amount of time the employee spends performing a specific service and/or activity on a daily basis.
 - ii. Direct Charge: The method of 'Direct Charging' is to report MAA costs for staff that perform Medi-Cal eligible activities either 100 percent of the time or in distinct and documented blocks of time. Staff who perform Medi-Cal eligible activities either 100 percent of the time or in distinct blocks of time must document the time spent on these activities in a log and must complete a "Staff Certification of Direct Charge Time" to certify that the percentage of claimable direct charge time is accurate, true, and correct. The Contractor may also utilize the staff classification and payroll coding documents to verify the reimbursable costs for staff that perform Medi-Cal eligible services and/or activities 100 percent of the time.
- c. Ensure all applicable State and Federal requirements governing Medi-Cal Administrative Claiming are met in performing MAA under this contract. It is understood and agreed that failure of the Contractor to ensure all applicable State and Federal requirements are met in performing MAA under this contract shall be sufficient cause for the County or State to deny or recoup payments to the Contractor and/or to terminate this contract.
- d. Participate in developing, updating and complying with the comprehensive Medi-Cal Administrative Claiming Plan that outlines specific MAA activities to be performed by Contractor, which is incorporated by reference and made part of this Agreement as though fully set forth herein. The claiming plan must be in the format specified by the State and claiming plan approved by the State, and this agreement must be signed by Contractor prior to the submission of MAA invoices.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

- e. Participation:
 - i. Participation in the MAA Program is voluntary; however, Contractor acknowledges that upon agreement to participate, it will be required to comply with all the applicable provisions.
 - ii. Only Contractor who performs MAA as a part of their approved Scope of Work with the Contractor will be eligible to participate and therefore the Contractor is not allowed to alter the original intent of the contract to incorporate MAA.
 - iii. Contractor is required to participate in an annual Time Survey Training and complete and submit the completed Monthly Time Survey by (15th of the following month).
 - iv. Contractor will be required to assist in the preparation of the MAA Claim Plan and invoices.
 - v. Contractor is required to provide the County with all the financial documentation for each fiscal year (July 1 through June 30 no later than October 15th of each year for prior year financials to complete invoices.)
- f. Designate an employee to act as the liaison with the County for issues concerning this contract.
- g. Retain all necessary records for a minimum period of five (5) years after the end of the quarter in which the expenditures were incurred for MAA and, if an audit is in progress, all records relevant to the audit shall be retained until the completion of the audit or the final resolution of all audit exceptions, deferrals, and/or disallowances, whichever is later, and if litigation has been initiated, all necessary records shall be retained until the final resolution of the litigation. The records shall fully disclose the type and extent of Medi-Cal administrative activities performed by the appropriate staff. The Contractor shall furnish such documentation and any other information regarding the performance of and payment for MAA, upon request, to the State or Federal government.
- h. The Contractor is responsible for the acts or omissions of its employees and/or subcontractors. Submission of falsified claim by the Contractor shall constitute a breach of this contract. Submission of a claim by the Contractor for which there is no supporting documentation shall constitute a material breach of this contract and grounds for immediate termination of this contract.

The conviction of the Contractor, an employee or subcontractor or an employee of a subcontractor, of any felony or of a misdemeanor involving fraud, abuse of any Medi-Cal Program, shall result in the exclusion of the Contractor, employee, or subcontractor from participation in the County MAA Program. Failure of the Contractor to exclude a convicted individual from participation in the MAA Program shall constitute a material breach of this contract and grounds for immediate termination of this contract.

Exclusion after conviction shall result regardless of any subsequent order under Section 1203.4 of the Penal Code allowing a person to withdraw his or her plea of guilty and to

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

Suspension or exclusion of the Contractor, employee of the Contractor, subcontractor or employee of the subcontractor, from participation in the Medi-Cal Program, the Medicaid Program or Medicare Program, shall result in the exclusion of the Contractor, employee of the Contractor, subcontractor or employee of the subcontractor from participation in the Medi-Cal Program. Failure of the Contractor to exclude a suspended or excluded individual from participation in the Medi-Cal Program shall constitute a material breach of this contract and grounds for immediate termination of this contract.

- i. Provide the County with adequate documentation to ensure that allowable Certified Public Expenditure, from a State-recognized public source that funds MAA activities, as outlined in 42 CFR 433.51. Documentation may include, but is not limited to:
 - i. Identification of public entity providing revenue source
 - ii. Verification that identified funding meets State and Federal criteria
 - iii. Documentation of revenue purpose and the nexus to MAA activities
 - iv. Certification from public source in a format deemed appropriate by County and State

In order for the County to submit Contractor invoices to the State, the Public entity subcontracting with the Contractor to support Title XIX MAA activities must certify, in a manner prescribed by the State, that the public expenditure is from the entity, General Fund, or from any other funds allowed under Federal law and regulation, for Title XIX funds claimed for MAA performed pursuant to W&I Code Section 14132.47. The County or State shall deny payment of any claim submitted under this contract if it determines that the certification is not adequately supported for purposes of FFP. Expenditures certified for MAA costs shall not duplicate, in whole or in part, claims made for the costs of direct patient care.

- j. Agrees that the County, the State DHCS, the Department of General Services, the Bureau of State Audits, or their designated representative, and employees of the California Department of Justice, and the United States Centers for Medicare and Medicaid Services, shall have the right to review, access, examine, monitor, audit, and to copy any records and supporting documentation pertaining to the performance of this contract. Contractor agrees to allow interviews of any employees, or staff of any subcontractor, who might reasonably have information related to such records by either State and/or Federal authorities.

2. **County Responsibilities:**

- a. Maintain a contract with the State and the Local Government Agency Host County during the term of this contract, allowing the County to submit MAA Claims.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

- b. Provide the Contractor with a standardized format for the MAA Claiming Plan, State Certified Public Expenditures (CPE) Certification process, Detailed Invoice and any subsequent updates as provided by the State.
- c. Complete, review, and submit Contractor MAA claims to State by December 31 of each fiscal year.
- d. The County shall invoice DHCS on behalf of the Contractor for reimbursement of MAA allowable activities rendered by the Contractor.
- e. Review Claiming Plans and amendments to the Claiming Plan. Any amendment that cannot be approved shall be returned to the Contractor with a written explanation of the basis for disapproval.
- f. Collaborate with manager in the operational plan development, time survey reviews and audit binder compliance.
- g. Review and verify documentation and certifications provided by Contractor to ensure funds being used to support MAA activities meet CFR 433.51 Certified Public Expenditure criteria and are in a format prescribed by the State.
- h. Attend statewide CMAA training sessions conducted by DHCS, and the LGA Consortium. Develop, arrange and train the Contractor CMAA participants in a timely manner to maintain compliance with CMAA policies and program requirements.
- i. The County shall provide ongoing technical assistance to Contractor as needed regarding all aspects of the CMAA program to ensure compliance.

MAA/TCM Coordinator
2180 Johnson Avenue
Health Campus, 2nd Floor
San Luis Obispo, CA 93401

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

**EXHIBIT B – INDEPENDENT CONTRACTOR
COMPENSATION AND BILLING FOR SERVICES**

1. Compensation.

Payments for services performed by Contractor, pursuant to this Contract, shall not exceed two hundred thousand dollars (\$200,000.00) per fiscal year, which includes compensation for pre-authorized travel related to the performance of Contractor's duties.

2. Billing.

Contractor shall submit all financial information that pertains to the MAA invoice to the county each year, no later than October 1st. This information includes, Salary and benefits reports, general ledger, Medi-Cal factor percentage for children under the age of five.

3. Payment for Reimbursement.

The Contractor will incur 100% of the cost of providing Medi-Cal Administrative Activities (MAA) services to the community. The County shall then invoice the Department of Health Care Services on behalf of the Contractor for reimbursement of MAA allowable activities rendered by the Contractor. Upon receipt of 100% of the reimbursement from the Department of Health Care Services, the County shall reimburse the Contractor 100% of the reimbursement. The County will then invoice the Contractor the 10% administrative fee.

4. Use of Funds.

- a. Contractor shall not claim reimbursement from the County or apply sums received from County to any portion of Contractor's obligations that have been paid or funded from another source.
- b. If Contract services are to be funded by a grant, in no event shall Contractor be entitled to receive any funds in excess of the actual grant funds received less the amounts allocated for the services of San Luis Obispo County. Presently, it is anticipated that the grant funds available for services of Contractor will be no more than two hundred thousand dollar (\$200,000.00) per fiscal year. However, if the County receives a lesser amount, the County's obligation to reimburse Contractor shall be limited to that amount actually received. Under no circumstances shall the County be obligated to reimburse Contractor for services rendered under this Contract with any County fiscal resources for property other than the funding to be received from the Department of Health Care Services, Grant Number 20-10019, as delineated above. In the event that such funding is not made available or is withdrawn or is required to be returned, the amount payable to Contractor hereunder shall be eliminated or reduced or returned consistent with the funding source's actions. Contractor shall hold the County harmless for such loss or return of funding and any reliance thereon.

5. Contract Amendments.

The scope of services covered in this Contract and the related compensation rates are anticipated types and rates for services. Accordingly, the Purchasing Agent has the authority to amend this Contract to renew, exchange, delete, or add to the types of

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

services and/or to increase compensation to Contractor up to the limits set forth in the County's Contracting for Services Purchasing Policy. All amendments shall be in writing and signed by both parties.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

EXHIBIT C – INDEPENDENT CONTRACTOR
TERM OF CONTRACT

1. Effective Date.

- a. The effective date of this Contract is July 1, 2020. The County of San Luis Obispo shall be the last to sign this Contract and any amendments thereto. All obligations imposed on both parties shall be binding on both parties commencing on the effective date and shall remain in effect until satisfied by performance.

2. Term.

Unless terminated earlier or renewed pursuant to the provisions of this Contract, the term of this Contract shall be from the effective date stated above until June 30, 2023.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

EXHIBIT D – INDEPENDENT CONTRACTOR
GENERAL CONDITIONS

1. Independent Contractor.

Contractor shall be deemed to be an independent contractor of County. Nothing in this Contract shall be construed as creating an employer-employee relationship, partnership or a joint venture relationship. Nothing in this Contract authorizes or permits the County to exercise direction or control over the professional manner in which Contractor provides services. Contractor's services shall be provided in a manner consistent with all applicable standards and regulations governing such services.

2. No Eligibility for Fringe Benefits.

Contractor understands and agrees that Contractor and its personnel are not, and will not be, eligible for membership 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.

3. Warranty of Contractor for Provision of Services.

Contractor shall obtain and shall keep in full force and effect during the term of this Contract all permits, registrations and licenses necessary to accomplish the work specified in the Contract. Contractor agrees that it shall immediately notify County in writing of any termination, suspension, reduction, or restriction of any requisite license, accreditation, or certification held by Contractor and/or its employees. Contractor warrants that it, and each of the personnel employed or otherwise retained by Contractor, shall at all times, to the extent required by law, be properly certified and licensed throughout the entire duration of this Contract under the local, state and federal laws and regulations applicable to the provision of services herein.

4. Warranty of Contractor – Compliance with all Laws.

The Contractor warrants that Contractor shall keep informed of, observe, and comply with, and cause all of its agents and personnel to observe and comply with all federal, state, and local laws and rules and regulations made pursuant to such laws, which in any way affect the conduct of work under this Contract. If any conflict arises between provisions of the scope of work or specifications in this Contract and any law, then the Contractor shall immediately notify the County in writing.

5. Power and Authority of Contractor.

If the Contractor is a corporation or a limited liability entity, Contractor represents and warrants that it is and will remain, throughout the term of this Contract, either a duly organized, validly existing California corporation or limited liability entity in good standing under the laws of the state of California or a duly organized, validly existing foreign corporation or limited liability entity in good standing in the state of incorporation, organization, or formation and authorized to transact business in the state of California.

**CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY**

6. Non-Assignment of Contract.

Inasmuch as this Contract is intended to secure the specialized services of the Contractor, Contractor shall not delegate, assign, or otherwise transfer in whole or in part its rights or obligations under this Contract without prior written consent of County. Any such assignment, transfer, or delegation without the County's prior written consent shall be null and void.

7. Entire Contract and Modifications.

- a. This Contract supersedes all previous contracts between the parties hereto on the same subject matter and constitutes the entire understanding of the parties hereto on the subject matter of this Contract. Contractor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Contractor specifically acknowledges that in entering into and executing this Contract, Contractor relies solely upon the provisions contained in this Contract and no others.
- b. This Contract may be executed in counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute one and the same agreement. This Contract may be executed and delivered by facsimile or scanned signature by any of the parties and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or email as if the original had been received.

8. Governing Law and Venue.

This Contract shall be governed by, and construed in accordance with, the laws of the state of California, without regard to its conflict of laws provisions. All parties' rights and obligations created hereunder shall be performed in the County of San Luis Obispo, state of California and such County shall be the venue for any action or proceeding that may be brought, or arise out of, this Contract.

9. Waiver.

No delay or failure on the part of any party hereto in exercising any right, power or privilege under this Contract shall impair any such right power or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude the further exercise of such right power or privilege or the exercise of any other right, power or privilege. No waiver shall be valid unless made in writing and signed by the party against whom enforcement of such waiver is sought, and then, only to the extent expressly specified therein.

10. Severability.

The Contractor agrees that if any provision of this Contract is found to be invalid, illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Upon determination that any term or provision is invalid, illegal or unenforceable, the parties shall negotiate in good faith to modify this Contract so as to effectuate the original intent of the parties as closely as possible.

**CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY**

11. Nondiscrimination.

Contractor agrees that it will abide by all federal and state labor and employment laws and regulations prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sexual orientation, gender, gender identity, gender expression, disability, national origin, or other legally protected criteria.

12. Notices.

- a. All notices given or made pursuant hereto shall be in writing and shall be deemed to have been duly given if delivered personally, mailed by registered or certified mail (postage paid, return receipt requested) or sent by a nationally recognized overnight courier (providing proof of delivery) to the parties at the following addresses, or sent by electronic transmission to the following facsimile numbers:

Michael Hill, Health Agency Director
Health Agency
County of San Luis Obispo
2180 Johnson Avenue
Health Campus, 2nd Floor
San Luis Obispo, CA 93401
Fax: (805) 781-1273

- b. And to Contractor at:

Children and Families Commission (First 5)
3220 South Higuera Street, Suite 232
San Luis Obispo, CA 93401-6985
805-781-4058

- c. Any such notice shall be deemed to have been received if:

- i. In the case of personal delivery or facsimile transmission with confirmation retained, on the date of such delivery;
 - ii. In the case of nationally recognized overnight courier, on the next business day after the date sent;
 - iii. In the case of mailing, on the third business day following posting.

13. Inspection Rights/Records Retention and Access.

The Contractor shall allow the County to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract and to inspect, evaluate and audit any and all books, records and facilities maintained by Contractor and subcontractors, pertaining to such service at any time during normal business hours. Books and records include, without limitation, all physical records originated or prepared pursuant to the performance under this Contract including work papers, reports, financial records and books of account. Upon request, at any time during the period of this Contract, and for a period of five years thereafter, the Contractor shall furnish any such record, or copy thereof, to County.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

14. Headings.

The headings contained in this Contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this Contract.

15. Signatory Authority.

Contractor warrants that it has full power and authority to enter into and perform this Contract, and the person signing this Contract warrants that he or she has been properly authorized and empowered to enter into this Contract.

16. Indemnification.

To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the Contract except such loss or damage which was caused by sole negligence or willful misconduct of the County.

17. Insurance.

- a. Contractor shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees. If the Contractor maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the Contractor.
- b. Minimum Scope and Limit of Insurance. Coverage should be at least as broad as:

i. Commercial General Liability (CGL)

Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

ii. Automobile Liability

ISO Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

iii. Workers' Compensation

Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage shall also 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

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to 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.

iv. Professional Liability/Errors and Omissions

Insurance covering Contractor's liability arising from or related to this Contract, with limits of not less than \$1 million per claim and \$2 million aggregate. Further, Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Contract's expiration, termination or cancellation.

- c. Additional Insured Status: The County, its officers, officials, employees, and volunteers are to be covered as insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).
- d. Primary Coverage: For any claims related to this Contract, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- e. Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the County.
- f. Failure to Maintain Insurance: Contractor's failure to maintain or to provide acceptable evidence that it maintains the required insurance shall constitute a material breach of the Contract, upon which the County immediately may withhold payments due to Contractor, and/or suspend or terminate this Contract. The County, at its sole discretion, may obtain damages from Contractor resulting from said breach.
- g. Waiver of Subrogation: Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.
- h. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

- i. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.
- j. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the Contract or the beginning of Contract work.
 - ii. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the Contract of work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of Contract work.
- k. 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.
- l. Verification of Coverage: Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
 - i. Certificates and copies of any required endorsements shall be sent to:

County of San Luis Obispo
Public Health Department Administration
2180 Johnson Ave, 2nd Floor
San Luis Obispo, CA 93401
Attention: Annette Martin, Administrative Services Officer II

- m. Subcontractors: Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.
- n. Special Risks or Circumstances: County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

18. Nonappropriation of Funds.

In the event that the term of this Contract extends into fiscal years subsequent to that in which it was approved, continuation of the Contract is contingent on the appropriation of funds by the San Luis Obispo County Board of Supervisors or, if applicable, the

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

provision of state or federal funding source. If County notifies Contractor in writing that the funds for this Contract have not been appropriated or provided, this Contract will terminate. In such an event, the County shall have no further liability to pay any funds to the Contractor or to furnish any other consideration under this Contract, and the Contractor shall not be obligated to perform any provision of this Contract or to provide services intended to be funded pursuant to this Contract. If partial funds are appropriated or provided, the County shall have the option to either cancel this Contract with no liability to the County or offer a Contract amendment to the Contractor to reflect the reduced amount.

19. Force Majeure.

Neither the County nor the Contractor shall be deemed in default in the performance of the terms of this Contract if either party is prevented from performing the terms of this Contract by causes beyond its control, including without limitation: acts of God; rulings or decisions by municipal, federal, state or other governmental bodies; any laws or regulations of such municipal, federal, state or other governmental bodies; or any catastrophe resulting from flood fire, explosion, or other causes beyond the control of the defaulting party. Any party delayed by force majeure shall, as soon as reasonably possible, give the other party written notice of the delay. The party delayed shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other parties written notice thereof and shall resume performance under this Contract.

20. Fiscal Records.

Contractor shall maintain accurate fiscal records pertaining to services performed under this Contract. Such fiscal records shall be open for inspection to County Auditors at any reasonable time and will reflect cost accounting that conforms to generally accepted accounting procedures. Contractor shall maintain such records and accounts for a minimum of five years, or in the case of an audit, until audit findings are resolved, whichever is later.

21. Fiscal Controls.

- a. Contractor shall adhere to the accounting requirements, financial reporting, and internal control standards as described in the County of San Luis Obispo Auditor-Controller Contract Accounting Handbook, (Handbook) which contains the minimum required procedures and controls that must be employed by Contractor's accounting and financial reporting system, and which is incorporated herein by reference. The Handbook may be modified from time to time and Contractor shall comply with modifications from and after the date modified. Contractor shall require subcontractors to adhere to the Handbook for any services funded through this Contract, unless otherwise agreed upon in writing by County.
 - i. The Handbook is available at <http://www.slocounty.ca.gov/AC/>, under Policies and Procedures or at the Auditor-Controller's Office, 1055 Monterey Street Room D220, County Government Center, San Luis Obispo CA, 93408.
 - ii. The Office of Management and Budget ("OMB") circulars are available at <http://www.whitehouse.gov/omb/circulars>.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

23. County Audit.

County may audit Contractor's fiscal records under this Contract at any time with fourteen (14) days advance written notice. County audits shall be conducted in accordance with generally accepted audit standards, which includes without limitation, verification that services billed by the Contractor were actually provided to County. Contractor shall provide County with on-site access to all reasonable documents, records and other supporting information for billing and services under this Contract.

24. State Audit.

Pursuant to California Government Code section 8546.7, every County contract involving the expenditure of funds in excess of ten thousand dollars (\$10,000) is subject to examination and audit of the State auditor for a period of three years after final payment under the contract. Contractor shall permit the State Auditor to have access to any pertinent books, documents, papers and records for the purpose of said audit.

25. Nondisclosure.

All reports, information, documents, or any other materials prepared by Contractor under this Contract are the property of the County unless otherwise provided herein. Contractor shall not disclose such reports, information, documents and other materials without County's prior written consent. Any requests for information shall be forwarded to County along with all copies of the information requested. County shall make the sole decision about whether and how to release information according to law. This section shall survive termination of this Contract.

26. Conflict of Interest.

Contractor acknowledges that Contractor is aware of and understands the provisions of Government Code sections 1090, et seq., and 87100, et seq., which relate to conflicts of interest of public officers and employees. Contractor certifies that Contractor is unaware of any financial or economic interest of any public officer or employee of the County relating to this Contract. Contractor agrees to comply with applicable requirements of Government Code sections 1090 and 87100, et seq. during the term of this Contract.

27. Immigration Reform and Control Act.

Contractor acknowledges that Contractor, and all subcontractors hired by Contractor to perform services under this Contract are aware of and understand the Immigration Reform and Control Act ("IRCA") of 1986, Public Law 99-603. Contractor certifies that Contractor is and shall remain in compliance with IRCA and shall ensure that any subcontractors hired by Contractor to perform services under this Contract are in compliance with IRCA.

28. Third Party Beneficiaries.

It is expressly understood that the enforcement of the terms and conditions and all rights of action related to enforcement, shall be strictly reserved to County and Contractor. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other third person.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

29. Tax Information Reporting.

Upon request, Contractor shall submit its tax identification number or social security number, whichever is applicable, in the form of a signed W-9 form, to facilitate appropriate fiscal management and reporting.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

EXHIBIT E – INDEPENDENT CONTRACTOR
SPECIAL CONDITIONS

1. Termination for Convenience.

- a. Either party may terminate this Contract at any time by providing the other party written notice of termination for convenience (Notice of Termination for Convenience). The Notice of Termination for Convenience shall specify the date upon which such termination will become effective, which shall be at least 30 calendar days after the date of the Notice of Termination for Convenience. Termination for convenience shall be effective at 11:59 p.m., Pacific Standard Time, on the specified date for termination set forth in the Notice of Termination for Convenience.
- b. Termination for convenience shall have no effect upon the rights and obligations of the parties arising out of any services, which were provided prior to the effective date of such termination. Contractor shall be paid for all work satisfactorily completed prior to the effective date of termination.
- c. After receiving a Notice of Termination for Convenience, Contractor shall, unless directed by County, place no further subcontracts for services or materials, terminate all subcontracts to the extent they relate to the work terminated, and settle all outstanding liabilities arising from the termination of subcontracts.
- d. In the event of termination for convenience, all Contractor's obligations to provide services shall automatically terminate on the effective date of termination. Contractor shall thereafter have no further rights, powers, or privileges against County under or arising out of this Contract.
- e. Neither this section nor section 2 of this Exhibit apply to a decision by either party not to exercise an option to renew this Contract.

2. Termination for Cause.

- a. If the County determines that there has been a material breach of this Contract by Contractor that poses a threat to health and safety, the County may immediately terminate the Contract. In addition, if any of the following occur, County shall have the right to terminate this Contract effective immediately upon giving written notice to the Contractor:
 - i. Contractor fails to perform his duties to the satisfaction of the County; or
 - ii. Contractor fails to fulfill in a timely and professional manner his obligations under this Contract; or
 - iii. Contractor fails to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the County; or
 - iv. Any requisite licenses or certifications held by Contractor are terminated, suspended, reduced, or restricted; or
 - v. Contractor has not, to the satisfaction of the County, documented or has not sufficiently documented services provided by Contractor, which includes without limitation, failure to meet industry standards or failure to satisfy any special requirements needed by third party payors or federal or state funding agencies; or

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

- vi. Contractor has failed or refused to furnish information or cooperate with any inspection, review or audit of Contractor's program or County's use of Contractor's program. This includes interviews or reviews of records in any form of information storage; or
- vii. Contractor fails to comply with any provision of the Health Agency Compliance Plan or Code of Ethics.

- b. For all other material breaches of this Contract, County must give Contractor written notice setting forth the nature of the breach. If Contractor fails to remedy said breach within ten (10) days from the date of the written notice, County may terminate the Contract.
- c. In the event of termination for cause, Contractor shall thereafter have no further rights, powers, or privileges against County under or arising out of this Contract. Contractor's obligations to provide services shall automatically terminate on the effective date of termination. In the event a breach does not result in termination, but does result in costs being incurred by County, said costs shall be charged to and paid by Contractor. Such costs may include, but are not limited to, costs incurred by County in investigating and communicating with Contractor regarding said breach, including staff time.

3. Accounting for Travel and Lodging.

In the event that the scope of services expressly contemplates payment for travel and lodging, these costs must be reasonable and in no event shall exceed levels allowed for County employees on official business.

4. Compliance with Health Care Laws.

Contractor agrees to abide by all applicable local, state and federal laws, rules, regulations, guidelines, and directives for the provision of services hereunder, including without limitation, the applicable provisions of the Civil Code, Welfare and Institutions Code, the Health and Safety Code, the Family Code, the California Code of Regulations, the Code of federal Regulations (C.F.R.), and the Health Insurance Portability and Accountability Act (HIPAA). This obligation includes, without limitation, meeting delivery of service requirements, guaranteeing all client's rights provisions are satisfied, and maintaining the confidentiality of patient records.

5. Consistency in Level of Services.

As a condition for reimbursement, Contractor shall provide to and ensure that clients served under this Contract receive the same level of services as provided to all other clients served regardless of medical or medication status or other source of funding, or in any other respect on the basis of race, color, gender, gender identity, gender expression, religion, marital status, national origin, age, sexual orientation, disability, or on any other basis.

6. Nondiscrimination.

- a. 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

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

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.

- b. Contractor shall comply with the provisions of the Americans with Disabilities Act of 1990, the Fair Employment and Housing Act (Government Code section 12900 et seq.) and the applicable regulation promulgated thereunder (Title 2 Section 7285 et seq.) The Contractor shall give written notice of its obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- c. Contractor shall comply with all state and federal nondiscrimination laws and regulations, and shall not engage in any unlawful discriminatory practices in the admission of beneficiaries, assignments of accommodations, access to programs or activities, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, gender identity, gender expression, religion, marital status, national origin, age, sexual orientation, disability, or on any other basis.

7. Quality Assurance.

Contractor agrees to conduct a program of quality assurance and program review that meets all requirements of the State Department of Health Services. Contractor agrees to cooperate fully with program monitoring or other programs that may be established by County to promote high standards of health care to clients at economical costs.

8. Confidentiality.

Contractor shall abide by all applicable local, state and federal laws, rules, regulations, guidelines, and directives regarding the confidentiality and security of patient information, including without limitation, Welfare and Institutions Code sections 14100 et seq., and 5328 et seq.; 42 C.F.R. section 431.300 et seq.; 42 C.F.R. Part 2; California Medical Information Act (CMIA); HIPAA and its implementing regulations, including but not limited to 45 C.F.R. Parts 142, 160, 162 and 164; and the provisions of Exhibit xxx of this Contract (the Business Associate Agreement). Any conflict between the terms and conditions of this Contract and Exhibit xxx shall be read so that the more legally stringent terms and obligations of the Contractor shall control and be given effect. Contractor shall not disclose any client/patient identifying information, except as otherwise authorized by law.

9. Screening for Inspector Generals' Excluded Provider List and Medi-Cal List of Excluded Providers, applicable to contracts receiving federal funds (See https://oig.hhs.gov/exclusions/effects_of_exclusion.asp#f1).

At the time of securing a new employee or service provider, Contractor shall conduct or cause to be conducted a screening and provide documentation to County certifying that its new employee or service provider is not listed on the Excluded Provider List of the Office of the Inspector General or the Medi-Cal List of Excluded Providers. On an annual basis, Contractor shall conduct or cause to be conducted a screening of all employees, subcontractors or agents and shall sign a certification documenting that neither Contractor nor any of its employees, subcontractors or agents are listed on the Excluded Provider List of the Office of the Inspector General or the Medi-Cal List of Excluded Providers. Documentation shall be forwarded to the Contracts Coordinator for inclusion in the Contract file.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

10. Standing to Receive Federal Funds, applicable to contracts receiving federal funds.

If applicable, Contractor certifies that Contractor is and shall remain in good standing with the federal government to receive federal funds, as verified by the fact that to the best of its knowledge and belief, neither Contractor, its principals or affiliates, nor any subcontractor utilized under this Contract are listed on the federal Excluded Parties Listing System, debarred or suspended from federal financial assistance programs and activities, proposed for debarment, declared ineligible or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor further agrees to provide to County its Unique Entity Identifier (UEI) number, formerly known as the Data Universal Numbering System number, in order for County to verify at any time but at least on an annual basis that Contractor and all its employees, subcontractors, or agents remain in good standing and are not identified as suspended or debarred on the federal System Award Management (SAM) list (www.sam.gov).

11. License Information, only applicable if County is billing Medi-Cal.

Contractor shall provide County a list of all licensed persons who may be providing services under this Contract. The list shall include the name, title, professional degree, license number, and National Provider Identification Number.

12. Training Program.

- a. Contractor shall provide health information privacy and security training to all employees as required by Title 22 of the California Code of Regulations, HIPAA and CMIA.
- b. Within 15 calendar days of hire, and annually thereafter, Contractor, its employees, subcontractors and agents shall read the latest edition of the Confidentiality Agreement and HIPAA primer for Contractor Use, and complete related training provided by the Health Agency. Contractor may adopt and comply with an alternate HIPAA training and confidentiality agreement if granted written approval by the Health Agency Compliance Officer.
- c. Contractor shall maintain records providing signatures (either actual or electronic) from each employee, subcontractor and agent stating that they read the Health Information Privacy and Security Policy, completed the related training and agree to abide by its contents. Relias Learning or equivalent E-learning records are sufficient to comply with this requirement.
- d. The Health Information Privacy and Security Policy and Procedure may be found here:
 - i. <http://www.slocounty.ca.gov/Departments/Health-Agency/Behavioral-Health/Quality-Support/Services/Health-Agency-Contractor-and-Network-Provider-Supp.aspx>
- e. The Confidentiality Agreement and HIPAA Primer for Contractor Use may be found here:
 - i. <http://www.slocounty.ca.gov/Departments/Health-Agency/Behavioral-Health/Quality-Support/Services/Health-Agency-Contractor-and-Network-Provider-Supp.aspx>

**CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY**

13. Record Keeping and Reporting of Services.

- a. Contractor shall keep complete and accurate records for each client treated pursuant to this Contract, which shall include, but not be limited to, diagnostic and evaluation studies, treatment plans, progress notes, program compliance, outcome measurement and records of services provided in sufficient detail to permit an evaluation of services without prior notice. Such records shall comply with all applicable federal, state, and County record maintenance requirements.
- b. Contractor shall submit informational reports as required by County on forms provided by or acceptable to County with respect to Contractor's program, major incidents, and fiscal activities of the program.
- c. Contractor shall collect and provide County with all data and information that County deems necessary for County to satisfy state reporting requirements, which shall include, without limitation, Medi-Cal cost reports.

14. Equipment, if applicable.

- a. Contractor shall furnish all personnel and equipment for the performance of services pursuant to this Contract, including supplies, equipment, telephone, furniture, utilities, and quarters necessary for the performance of services pursuant to this Contract, with the exception of:
 - i. All required County forms;
 - ii. County may at its option and at County's sole discretion, elect to provide certain equipment which shall remain County property and be returned to the County upon earlier demand by or in no event later than the termination of the Contract.

15. Other Employment.

- a. Contractor shall retain the right to provide services at another facility or to operate a separate private practice; subject, however, to the following prohibitions:
 - i. No such private practice shall be conducted or solicited on County premises or from County-referred clients.
 - ii. Such other employment shall not conflict with the duties, nor the time periods within which to perform those duties, described in this Contract.
 - iii. The insurance coverage provided by the County or by the Contractor for the benefit of the County herein is in no way applicable to nor diminished by any other employment or services not expressly set forth in this Contract.

16. Gifts.

Gifts may not be charged to this Contract, whether to Contractor staff or anyone else.

17. Power to Terminate.

The Health Agency Director may effectuate termination of this Contract without the need for action, approval, or ratification by the Board of Supervisors.

18. Standards for Charitable Accounting.

Contractors who are nonprofit corporations shall abide by the Standards for Charitable Accountability and applicable OMB Circulars.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

19. Inspection of Records by Local, State or Federal Agency.

- a. The Contractor shall allow the County, the State Department of Health Services, United States Department of Health and Human Services (HHS), the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract and to inspect, evaluate and audit any and all books, records, and facilities maintained by Contractor, pertaining to such service at any time during normal business hours.
- b. Books and records include, without limitation, all physical records originated or prepared pursuant to the performance under this Contract including work papers, reports, financial records, books of account, beneficiary records, prescription files, and any other documentation pertaining to covered services and other related services for beneficiaries. Upon request, at any time during the period of this Contract, and for a period of five years thereafter, the Contractor shall furnish any such record, or copy thereof, to the County Health Agency, DHS, HHS.

20. Disentanglement.

Contractor warrants that in the event of any expiration or termination of this Contract, Contractor will take all actions necessary to accomplish a complete and timely transition to the County, or to any replacement provider, of the services being terminated (a "Disentanglement") without any material impact on the services. Contractor shall cooperate with County and otherwise take all steps reasonably required to assist County in effecting a complete and timely Disentanglement. Contractor shall provide County with all information regarding the services or is otherwise needed for Disentanglement.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

EXHIBIT F – INDEPENDENT CONTRACTOR
BUSINESS ASSOCIATE AGREEMENT

1. General Provisions and Recitals.

- a. All terms used, but not otherwise defined below herein, have the same meaning as in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act (“HITECH”), and their implementing regulations at 45 C.F.R. Parts 160 through 165 (“HIPAA regulations”) (collectively along with state law privacy rules as “HIPAA laws”) as they may exist now or be hereafter amended.
- b. A business associate relationship under the HIPAA laws between Contractor and County arises to the extent that Contractor performs, or delegates to subcontractors to perform, functions or activities on behalf of County under the Contract.
- c. County wishes to disclose to Contractor certain information pursuant to the terms of the Contract, some of which may constitute Protected Health Information (“PHI”), as defined by the HIPAA laws, to be used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the Contract.
- d. The parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Contract in compliance with the applicable standards, implementation specifications, and requirements of the HIPAA laws.
- e. The HIPAA Privacy and Security rules apply to Contractor in the same manner as they apply to County. Contractor agrees therefore to be in compliance at all times with the terms of this Business Associate Contract and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Contract.

2. Definitions.

- a. “Administrative Safeguards” are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of Contractor’s workforce in relation to the protection of that information.
- b. “Agent” shall have the meaning as determined in accordance with the federal common law of agency.
- c. “Breach” means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA laws which compromise the security or privacy of the PHI.
 - i. Breach excludes:
 - 1) Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of Contractor or County, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

- 2) Any inadvertent disclosure of PHI by a person who is authorized to access protected health information at the County or the Contractor, to another person authorized to access protected health information at the County, the Contractor, other covered entity or business associate, that has not been used or disclosed except in compliance with law.
- 3) A disclosure of PHI where Contractor or County has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

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

- 1) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- 2) The unauthorized person who used the PHI or to whom the disclosure was made;
- 3) Whether the PHI was actually acquired or viewed; and
- 4) The extent to which the risk to the PHI has been mitigated.

iii. "County PHI" means either: (1) PHI disclosed by County to Contractor; or (2) PHI created, received, maintained, or transmitted by Contractor pursuant to executing its obligations under the Contract.

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

v. "Minimum Necessary" shall mean the Privacy Rule Standards in 45 C.F.R. sections 164.502(b) and 164.514(d)(1).

vi. "Physical Safeguards" are physical measures, policies, and procedures to protect Contractor's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion required by the HIPAA laws.

vii. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

3. Obligations and Activities of Contractor as a Business Associate.

- a. Contractor agrees not to use or further disclose County PHI other than as permitted or required by this Business Associate Contract or as required by law.
- b. Contractor agrees to use appropriate safeguards and other legally-required safeguards to prevent use or disclosure of County PHI other than as provided for by this Business Associate Contract.
- c. Contractor agrees to comply with the HIPAA Security Rule at Subpart C of 45 C.F.R. Part 164 with respect to electronic County PHI.
- d. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a Use or Disclosure of County PHI by Contractor in violation of the requirements of this Business Associate Contract or HIPAA laws.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

- e. Contractor shall ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Contractor agree to the same restrictions and conditions that apply through this Business Associate Contract to Contractor with respect to such information.
- f. Contractor agrees to provide access, within ten (10) calendar days of receipt of a written request by County, to PHI in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under 45 C.F.R. section 164.524 or any other provision of the HIPAA laws.
- g. Contractor agrees to make any amendment(s) to PHI in a Designated Record Set that County directs or agrees to pursuant to 45 C.F.R. section 164.526 at the request of County or an Individual, within fifteen (15) calendar days of receipt of said request by County. Contractor agrees to notify County in writing no later than ten (10) calendar days after said amendment is completed.
- h. Contractor agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of, County available to County and the Secretary in a time and manner as determined by County or as designated by the Secretary for purposes of the Secretary determining County's compliance with the HIPAA laws.
- i. Contractor agrees to document any Disclosures of County PHI that Contractor creates, receives, maintains, or transmits on behalf of County, and to make information related to such Disclosures available as would be required for County to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 C.F.R. section 164.528.
- j. Contractor agrees to provide County or an Individual, as directed by County, in a time and manner to be determined by County, any information collected in accordance with the Contract, in order to permit County to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with the HIPAA laws.
- k. Contractor agrees that to the extent Contractor carries out County's obligation under the HIPAA laws Contractor will comply with the requirements of the HIPAA laws that apply to County in the performance of such obligation.
- l. Contractor shall honor all restrictions consistent with 45 C.F.R. section 164.522 that the County or the Individual makes the Contractor aware of, including the Individual's right to restrict certain disclosures of PHI to a health plan where the individual pays out of pocket in full for the healthcare item or service, in accordance with HITECH Act section 13405(a).
- m. Contractor shall train and use reasonable measures to ensure compliance with the requirements of this Business Associate Contract by employees who assist in the performance of functions or activities on behalf of County under this Contract and use or disclose protected information; and discipline employees who intentionally violate any provisions.
- n. Contractor agrees to report to County immediately any Use or Disclosure of PHI not provided for by this Business Associate Contract of which Contractor becomes aware. Contractor must report to County Breaches of County PHI in accordance with the HIPAA laws.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

- o. Contractor shall notify County within twenty-four (24) hours of discovering any Security Incident, including all data Breaches or compromises of County PHI, however, both parties agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 C.F.R. section 164.412.
 - i. A Breach shall be treated as discovered by Contractor as of the first day on which such Breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor.
 - ii. Contractor shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other agent of Contractor, as determined by federal or state common law of agency.
 - iii. Contractor's initial notification shall be oral and followed by written notification within 24 hours of the oral notification.
 - iv. Oral notification shall be made to the HIPAA Privacy Officer by calling 805-781-4788 and to the HIPAA Security Officer by calling 805-781-4100. Written notification shall be sent to the following address:

HIPAA Privacy Officer
San Luis Obispo County Health Agency
2180 Johnson Avenue
San Luis Obispo, CA 93401
Or by Email at: Privacy@co.slo.ca.us
 - v. Contractor's notification shall include, to the extent possible:
 - 1) The identification of each Individual whose County PHI has been, or is reasonably believed by Contractor to have been, accessed, acquired, used, or disclosed during the Breach;
 - 2) Any other information that County is required to include in the notification to Individual under 45 C.F.R. section 164.404 (c) at the time Contractor is required to notify County or promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 C.F.R. section 164.410 (b) has elapsed, including:
 - 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 County PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - c. Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - d. A brief description of what Contractor is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and
 - e. Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

- p. County may require Contractor to provide notice to the Individual as required in 45 C.F.R. section 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the County.
- q. In the event that Contractor is responsible for a Breach of County PHI in violation of the HIPAA Privacy Rule, Contractor shall have the burden of demonstrating that Contractor made all notifications to County consistent with section 3., subsection o. and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.
- r. Contractor shall maintain documentation of all required notifications to County of a Breach or its risk assessment under 45 C.F.R. section 164.402 to demonstrate that a Breach did not occur.
- s. Contractor shall provide County all specific and pertinent information about the Breach, including the information listed above, if not yet provided, to permit County to meet its notification obligations under Subpart D of 45 C.F.R. Part 164 as soon as practicable, but in no event later than ten (10) calendar days after Contractor's initial notice of the Breach to County.
- t. Contractor shall continue to provide all additional pertinent information about the Breach to County as it may become available, in reporting increments of five (5) business days after the last report to County. Contractor shall also respond in good faith to any reasonable requests for further information, or follow-up information after report to County, when such request is made by County.
- u. Contractor shall bear all expense or other costs associated with the Breach and shall reimburse County for all expenses County incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation or other costs associated with addressing the Breach.
- v. Contractor shall train and use effective measures to ensure compliance with the requirements of this Exhibit by employees who assist in the performance of functions or activities on behalf of County under this Contract and use or disclose protected information; and discipline employees who intentionally or repeatedly violate any provisions.

4. Permitted Use and Disclosure by Contractor.

- a. Contractor may use or further disclose County PHI as necessary to perform functions, activities, or services for, or on behalf of, County as specified in the Contract, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by County.
 - i. Contractor may use County PHI, if necessary, for the proper management and administration of Contractor or to carry out legal responsibilities of Contractor.
 - ii. Contractor may disclose County PHI for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor, if:
 - 1) The Disclosure is required by law; or
 - 2) Contractor obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

and the person immediately notifies Contractor of any instance of which it is aware in which the confidentiality of the information has been breached.

- iii. Contractor may use or further disclose County PHI to provide Data Aggregation services relating to the Health Care Operations of Contractor.
- b. Contractor shall make Uses, Disclosures, and requests for County PHI consistent with the Minimum Necessary principle as defined herein.
- c. Contractor may use or disclose County PHI as required by law.

5. Obligations of County.

- a. County shall notify Contractor of any limitation(s) in County's notice of privacy practices in accordance with 45 C.F.R. section 164.520, to the extent that such limitation may affect Contractor's Use or Disclosure of PHI.
- b. County shall notify Contractor of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect Contractor's Use or Disclosure of PHI.
- c. County shall notify Contractor of any restriction to the Use or Disclosure of PHI that County has agreed to in accordance with 45 C.F.R. section 164.522, to the extent that such restriction may affect Contractor's Use or Disclosure of PHI.
- d. County shall not request Contractor to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by County.

6. Business Associate Termination.

- a. Upon County's knowledge of a material breach or violation by Contractor of the requirements of this Business Associate Contract, County shall:
 - i. Provide an opportunity for Contractor to cure the material breach or end the violation within thirty (30) business days; or
 - ii. Have the discretion to unilaterally and immediately terminate the Contract, if Contractor is unwilling or unable to cure the material breach or end the violation within (30) calendar days.
- b. Upon termination of the Contract, Contractor shall either destroy or return to County all PHI Contractor received from County or Contractor created, maintained, or received on behalf of County in conformity with the HIPAA Privacy Rule.
 - i. This provision shall apply to all PHI that is in the possession of subcontractors or agents of Contractor.
 - ii. Contractor shall retain no copies of the PHI.
- iii. In the event that Contractor determines that returning or destroying the PHI is not feasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon determination by County that return or destruction of PHI is infeasible, Contractor shall extend the protections of this Business Associate Contract to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for as long as Contractor maintains such PHI.
- c. The obligations of this Business Associate Contract shall survive the termination of the Contract.

CONTRACT FOR SPECIAL SERVICES
CHILDREN AND FAMILIES COMMISSION OF SAN LUIS OBISPO COUNTY

EXHIBIT G – INDEPENDENT CONTRACTOR
GRANTOR/STATE SPECIAL CONDITIONS

(See Department of Health Care Services Agreement Number 20-10019 and Exhibits attached
hereto as a separate document)