



COUNTY OF HUMBOLDT

AGENDA ITEM NO.
C-21

For the meeting of: June 23, 2015

Date: May 19, 2015
To: Board of Supervisors
From: Phillip R. Crandall *PRC*
Director, Department of Health and Human Services
Subject: Agreement with Redwood Community Action Agency to provide Temporary Shelter and Support Services to Eligible Adults at the Multiple Assistance Center

RECOMMENDATION(S):
That the Board of Supervisors:

1. Approves the Agreement with Redwood Community Action Agency for fiscal year 2015-16 to provide temporary shelter and support services to eligible adults at the Multiple Assistance Center (MAC), referred by Department of Health and Human Services (DHHS) programs;
2. Authorizes the Chairperson to execute three (3) originals of the Agreement; and
3. Directs the Clerk of the Board to route two (2) fully executed originals of the Agreement to the DHHS-Contract Unit.

SOURCE OF FUNDING:
Social Services Fund 1160

DISCUSSION:
From 2008 through June 2015, DHHS assisted the Redwood Community Action Agency (RCAA) in its operation of the Multiple Assistance Center (MAC) to serve income eligible families. The MAC is now

Prepared by Connie Beck, Assistant Director-Administration CAO Approval *Amy Duser*

REVIEW: Auditor *MSM* County Counsel *BA* Personnel _____ Risk Manager *KHOF* Other _____

TYPE OF ITEM:
 Consent
 Departmental
 Public Hearing
 Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____
Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor *Bass* Seconded by Supervisor *Sundberg*

Ayes *Sundberg, Fennell, Bohn, Bass*
Nays _____
Abstain _____
Absent *Lovelace*

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: *June 23, 2015*
By: *Kathy Hayes*
Kathy Hayes, Clerk of the Board

being repurposed to provide resources and services to provide safe and secure housing with 24-hour supervision, adequate food and clothing, and access to health care to income eligible single adults and couples.

Under the terms of the Agreement for fiscal year 2015-16, single adults and couples, who meet income and eligibility requirements established by California Department of Housing and Community Development (HCD) may be referred by DHHS to RCAA for placement at the MAC. RCAA will provide single beds for individuals as determined by DHHS in consultation with RCAA. The flexibility in beds will be based on client mix and staff capacity to serve them efficiently and safely. Housing assistance services to be provided to participants include, but are not limited to: coaching participants on process of obtaining housing, developing a housing plan in conjunction with DHHS case managers, assisting with completion of applications for housing, transporting participants to view potential housing, completing housing assessment to determine level of housing required, and maintaining a list of current available housing in close coordination with the City who will assist in the identification and development of housing stock. RCAA, in collaboration with DHHS will establish time tracks for each resident adult to provide housing and services.

FINANCIAL IMPACT:

The cost of the Agreement is One Million, Two Hundred Thirteen Thousand, Five Hundred Thirty-Two Dollars (\$1,213,532.00) and is included in the proposed fiscal year 2015-16 Budget in Fund 1160, Budget Unit 511. There will be no impact to the County General Fund.

This Agreement provides services that support the Boards strategic framework to protect vulnerable populations and create opportunities for improved safety and health.

OTHER AGENCY INVOLVEMENT:

City of Eureka

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board can choose not to approve this Agreement. DHHS does not recommend this as the MAC is a key component of the MIST team and DHHS to temporary house homeless individuals and couples and place them in permanent housing using Housing First, Rapid Rehousing, and Supportive Housing in close cooperation with the City of Eureka and Eureka Police Department.

ATTACHMENTS:

Attachment 1: Agreement with RCAA for FY 2015-16 (3 originals)

AGREEMENT FOR SERVICES

This Agreement is made and entered into this 23rd day of June, 2015, by and between the County of Humboldt (hereinafter, COUNTY), a political subdivision of the State of California, and Redwood Community Action Agency (hereinafter, CONTRACTOR), a non-profit organization.

RECITALS

WHEREAS, the CITY OF EUREKA and the CONTRACTOR have collaborated in the operation of the Multiple Assistance Center; and

WHEREAS, the CITY OF EUREKA and the CONTRACTOR have requested the COUNTY'S assistance in the operation of the Multiple Assistance Center; and

WHEREAS, the Board of Supervisors has directed that the COUNTY will provide financial support to the CONTRACTOR for its operation of the Multiple Assistance Center for Fiscal Year 2015-16.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. SCOPE OF SERVICES/DESCRIPTION OF SERVICES

CONTRACTOR agrees to provide all of the services described in Exhibit A, consisting of four (4) pages, attached hereto and incorporated by reference. Said exhibit describes the work to be performed by CONTRACTOR under this Agreement.

2. NO TERMS NOT INCLUDED:

This agreement contains all the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in its entirety any all prior agreements of the parties.

3. ENTIRETY OF CONTRACT

This Agreement shall constitute the entire Agreement between the parties relating to the subject matter of this Agreement, and shall supersede any previous agreements, promises, representation, understanding and negotiation, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms which are embodied in this Agreement are hereby ratified.

4. TERM

This Agreement shall commence on June 1, 2015 upon approval and terminate on June 30, 2016.

5. COMPENSATION

CONTRACTOR agrees that the total maximum compensation for services and costs under this Agreement shall be One Million Two Hundred Thirteen Thousand Five Hundred Thirty-Two Dollars (\$1,213,532.00) as set forth in the Budget attached hereto as Exhibit B, consisting of two (2) pages, and incorporated by reference. The CONTRACTOR agrees to perform all services required by this Agreement for an amount not to exceed such maximum dollar amount.

6. PAYMENT

CONTRACTOR shall submit an itemized invoice monthly to the COUNTY itemizing all work completed and costs incurred as of the invoice date. Payment for work performed will be made within thirty (30) days after receipt of the invoice.

7. TERMINATION FOR REDUCTION OR LACK OF FUNDING

COUNTY'S obligations under this Agreement are contingent upon the availability of county, State and/or Federal funds. In the event such funding is terminated or reduced, COUNTY shall, at its sole discretion, determine whether this Agreement shall be terminated or COUNTY'S maximum obligation reduced. COUNTY shall provide CONTRACTOR seven (7) days written notice of its intent to terminate this Agreement or its intent to reduce its maximum obligation under this Agreement.

8. TERMINATION FOR CAUSE

If, in the opinion of COUNTY, CONTRACTOR fails to perform the services required under this Agreement within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation, or other law which applies to its performance herein, COUNTY may terminate this Agreement immediately, upon notice. In such event, COUNTY shall pay to CONTRACTOR an equitable portion of the total remuneration as compensation for the portion of the work deemed acceptable by COUNTY, less the amount of any damages sustained by COUNTY as a result of CONTRACTOR'S breach of this Agreement. COUNTY shall be entitled to take possession of all studies, drawings, computations, specifications and reports insofar as they are complete and acceptable to COUNTY.

9. TERMINATION FOR CONVENIENCE

This Agreement may be canceled by either party upon 30 days written notice. Notice may be given by delivering a copy of said notice to CONTRACTOR personally, or by mailing a copy of said notice to CONTRACTOR. If mailed, notice shall be deemed received two (2) days after deposit in the United States mail, postage prepaid, and addressed as set forth in Paragraph 11, Notices.

10. AMENDMENT

No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

11. NOTICES

Notices shall be given to COUNTY at the following address:

Assistant Director of Programs
Humboldt County Department of Health & Human Services
507 F Street
Eureka, CA 95501

Notices shall be given to CONTRACTOR at the following address:

Executive Director
Redwood Community Action Agency (RCAA)
904 G Street
Eureka, CA 95501

Notice shall be in writing and may be given by delivering a copy of said notice to CONTRACTOR or COUNTY personally, or by mailing a copy of said notice to CONTRACTOR or COUNTY. If mailed, notices shall be deemed received two (2) days after their deposit in the United States mail, postage prepaid and addressed as set forth above.

12. ATTORNEYS' FEES

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees (including reasonable value of services rendered by County Counsel) to be fixed by the court, and such recovery shall include court costs and attorneys' fees (including reasonable value of services rendered by County Counsel) on appeal, if any. As used herein, the party prevailing means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

13. NO WAIVER OF DEFAULT

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

In no event shall any payment by COUNTY constitute a waiver of any breach of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to COUNTY with respect to the breach or default. COUNTY shall have the right to demand of the CONTRACTOR under this Agreement, which in the judgment of COUNTY were not expended in accordance with the terms of this Agreement. The CONTRACTOR shall promptly refund any such funds upon demand.

14. BOOK OF RECORD AND AUDIT PROVISIONS

- A. CONTRACTOR agrees to coordinate with COUNTY in the performance of this Agreement, timely preparation and maintenance of accurate and complete financial and performance records for a minimum of five (5) years from the date of final payment under this Agreement or until all pending County, State, and Federal audits are completed, whichever is later. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work. In addition CONTRACTOR shall maintain detailed payroll records. CONTRACTOR agrees to maintain such records locally and make them available for inspection by County, State and Federal representatives, during normal business hours, upon five (5) working days notice.
- B. CONTRACTOR will permit COUNTY, State and/or Federal Government to audit all books, accounts or records relating to this Agreement for the purpose of compliance with applicable audit requirements relative to this Agreement. CONTRACTOR shall provide the COUNTY, State or Federal Governments with any relevant information required and shall permit access to its premises, during normal business hours, upon five (5) working days notice.
- C. In the event of an audit exception or exceptions, the party responsible for not meeting the program requirement or requirements shall be responsible for the deficiency and for the cost of the audit. If CONTRACTOR is the party responsible for the deficiency, the cost of the audit and the deficiency shall be paid by CONTRACTOR within thirty (30) days of notice.
- D. CONTRACTOR'S rights and obligations under this provision shall continue after termination of the Agreement.

15. REPORTING:

CONTRACTOR agrees to provide COUNTY with any reports that may be required by County, State or Federal agencies for compliance with this

Agreement.

16. MONITORING:

CONTRACTOR agrees to extend to DHHS Director or designees, the right to review and monitor records, programs or procedures, at any time, in regards to clients, as well as the overall operation of CONTRACTOR'S programs in order to ensure compliance with the terms and conditions of this Agreement.

17. ASSIGNMENT

Neither party shall assign its obligations under this Agreement without the prior written consent of the other. Any assignment by CONTRACTOR in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement.

18. SUBCONTRACTING

CONTRACTOR shall not subcontract any portion of the work required by this Agreement without prior written approval of COUNTY.

19. RELATIONSHIP OF PARTIES

CONTRACTOR shall perform all work and services as described herein as an independent CONTRACTOR. No person performing any of the work or services described herein shall be considered an officer, agent, servant or employee of COUNTY, nor shall any such person be entitled to any benefits, including but not limited to Workers' Compensation Benefits, available or granted to employees of COUNTY. CONTRACTOR shall be solely responsible for the acts or omissions of its officers, agents, employees, and subcontractors. Nothing herein shall be construed as creating a partnership or joint venture between COUNTY and CONTRACTOR.

20. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE

CONTRACTOR certifies by its signature below that CONTRACTOR is not a Nuclear Weapons Contractor, in that CONTRACTOR is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CONTRACTOR agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if CONTRACTOR becomes a nuclear weapons contractor.

21. COMPLIANCE WITH APPLICABLE LAWS

CONTRACTOR shall comply with any and all applicable Federal, State and local laws affecting the services covered by this Agreement, including,

but not limited to, the Americans with Disabilities Act.

22. JURISDICTION AND VENUE

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder or relating to this Agreement shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure §§394 and 395.

23. NONDISCRIMINATORY DELIVERY OF SOCIAL SERVICES

CONTRACTOR agrees that it will comply with Title VI of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; Title II of the Americans With Disabilities Act of 1990, as amended; the Age Discrimination Act of 1972, as amended; the Food Stamp Act of 1977, as amended; California Civil Code, Section 51 et seq., as amended; California Government Code, Section 4450 et seq as amended and other applicable Federal and State laws and their implementing regulations, all as outlined in California DSS Manual Division 21. The CONTRACTOR agrees to ensure that the administration of public assistance and social services programs are nondiscriminatory, and that no person shall, because of race, religion or religious creed, color, age (over 40), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics) mental or physical disability (including HIV status and AIDS), military service, or any other classifications protected by federal, state, or local laws or ordinances be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal or State financial assistance.

The COUNTY reserves the right to monitor the CONTRACTOR for compliance with the requirements of this paragraph and Division 21.

24. NONDISCRIMINATORY EMPLOYMENT

In connection with the execution of this Agreement, CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion or religious creed, color, age (over 40), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics) mental or physical disability (including HIV status and AIDS), military service, or any other classifications protected by federal, state, or local laws or ordinances. This policy does not require the employment of unqualified persons.

CONTRACTOR further assures that it will abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1974, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, the Welfare and Institutions Code Section 10000, CDSS MPP Division 21, and other applicable Federal and State laws to ensure that employment practices are non-discriminatory.

CONTRACTOR shall comply with United States Executive Order 11246, entitled "Equal Employment Opportunity." United States Executive Order 11375 and supplemented in 45 CFR, Part 60, amends this. Practices in hiring, compensation, benefits and firing are among the employment practices subject to this requirement.

25. CONFIDENTIAL INFORMATION

In the performance of this Agreement, CONTRACTOR may receive confidential information. Said information may be confidential under the laws of California, including but not limited to Welfare and Institutions Code Sections 827, 10850; Division 19 California Department of Social Services Manual of Policies and Procedures, Confidentiality of Information; and/or the laws of the United States. CONTRACTOR shall comply with all laws regarding confidentiality and shall advise and require all subcontractors to comply with the laws of confidentiality.

26. INSURANCE

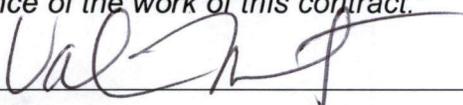
- A. This contract/agreement shall not be executed by COUNTY and the CONTRACTOR is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the Clerk of the Humboldt County Board of Supervisors.
- B. Without limiting CONTRACTOR'S indemnification provided herein, CONTRACTOR shall, and shall require any of its subcontractors, to take out and maintain, throughout the period of this Agreement, the following policies of insurance placed with insurers with a current A.M. Bests rating of no less than A:VII, or its equivalent, against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of CONTRACTOR, its agents, employees or subcontractors:
 - 1. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of Two Million Dollars (\$2, 000,000) per occurrence for any one incident, including, personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this

project or the general aggregate shall be twice the required occurrence limit.

2. Automobile/Motor liability Insurance with a limit of liability of not less than One Million Dollars (\$1,000,000) combined single limit coverage. Such insurance shall include coverage of all "owned", "hired", and "non owned" vehicles or coverage for "any auto".
3. Workers' Compensation and Employer's Liability insurance meeting statutory limits of the California Labor Code which policy shall contain or be endorsed to contain a waiver of subrogation against County, its officers, agents, and employees and provide for thirty (30) days prior written notice in the event of cancellation. In all cases, the above insurance shall include Employers Liability coverage with limits of not less than one million dollars per accident for bodily injury and disease.

If Contractor has no employees, Contractor may sign and file the following certification in lieu of insurance:

"I am aware of the provisions of the California Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with provisions of that code before commencing with and during the performance of the work of this contract."



Signature

4. Professional liability insurance/errors and omission coverage including coverage in an amount no less than One Million Dollars (\$1,000,000) for each occurrence (Three Million Dollars (\$3,000,000) general aggregate). Said insurance shall be maintained for the statutory period during which the professional may be exposed to liability. Contractor shall require that the aforementioned professional liability insurance coverage language be incorporated into its contract with any other entity with which it contracts for professional services.
5. Insurance Notices:

County of Humboldt
Attn: Risk Management

825 5th Street, Room 131
Eureka, CA 95501

C. **Special Insurance Requirements.** Said policies shall unless otherwise specified herein be endorsed with, the following provisions:

- (1) The Comprehensive General Liability Policy shall provide that the COUNTY, its officers, officials, employees and volunteers, are covered as additional insured for liability arising out of the operations performed by or on behalf of CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the COUNTY, its officers, officials, employees, and volunteers. Said policy shall also contain a provision stating that such coverage:
 - a. Includes contractual liability.
 - b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
 - c. Is primary insurance as regards to County of Humboldt.
 - d. Does not contain a pro-rata, excess only, and/or escape clause.
 - e. Contains a cross liability, severability of interest or separation of insured's clause.
- (2) The policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY and in accordance with the Notice provisions set forth under Section 11. It is further understood that CONTRACTOR shall not terminate such coverage until it provides COUNTY with proof satisfactory to COUNTY that equal or better insurance has been secured and is in place.
- (3) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

- (4) For claims related to this project, the CONTRACTOR'S insurance is primary coverage to the COUNTY, and any insurance or self-insurance programs maintained by the COUNTY are excess to CONTRACTOR'S insurance and will not be called upon to contribute with it.
- (5) Any failure to comply with reporting or other provisions of the Parties, including breach of warranties, shall not affect coverage provided to COUNTY, its officers, officials, employees, and volunteers.
- (6) CONTRACTOR shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement by COUNTY. The endorsements shall be on forms as approved by the COUNTY'S Risk Manager or County Counsel. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000) shall be disclosed to and approved by COUNTY. If CONTRACTOR does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and CONTRACTOR agrees to pay the cost of said insurance. COUNTY is also hereby authorized with the discretion to deduct the cost thereof from the monies owed to CONTRACTOR under this Contract.
- (7) COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered and CONTRACTOR shall be required to purchase additional coverage to meet the aggregate limits set forth above.

27. HOLD HARMLESS/INDEMNIFICATION CLAUSE

- A. CONTRACTOR shall hold harmless, defend and indemnify the COUNTY and its officers, officials, employees, volunteers and elective and appointive boards from and against any and all liability loss, all claims, losses, damages, including 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 agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the COUNTY. This indemnification shall extend to claims, losses, damages, injury, and liability for injuries occurring after completion of CONTRACTOR'S services, as well as during the progress of rendering such services.

B. Acceptance of insurance required by this Agreement does not relieve CONTRACTOR from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by CONTRACTOR'S operations regardless if any insurance is applicable or not.

28. MEDIA RELEASE

All press releases and informational material related to this Agreement shall receive approval from COUNTY prior to being released to the media (television, radio, newspapers, Internet). In addition, CONTRACTOR shall inform COUNTY of requests for interviews by media related to this Agreement prior to such interviews taking place. COUNTY reserves the right to have a representative present at such interviews. All notices required by this provision shall be given to the Director of the County Department of Health and Human Services or his designee.

29. STANDARD OF PRACTICE

CONTRACTOR warrants that CONTRACTOR has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. CONTRACTOR'S duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.

30. BINDING EFFECT

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and assigns.

31. SEVERABILITY

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

32. INTERPRETATIONS

As both parties jointly prepared this Agreement, the language in all parts of this Agreement shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

33. RESTRICTIONS, LIMITATIONS OR CONDITIONS

This Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Federal and/or State governments that may affect the provisions, terms or funding of this Agreement.

34. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

CONTRACTOR shall agree to use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") (45 C.F.R. Parts 160 and 164) under the Health Insurance Portability and Accountability Act of 1996. The definitions set forth in the Privacy Rule are incorporated by reference into this Contract (45 C.F.R. §§ 160.103 and 164.501). Contractor agrees that it will execute a HIPAA Business Associate Agreement ("BAA") with County and the BAA will be in the form set forth in Exhibit C, HIPAA Business Associate Agreement, attached and incorporated for all purposes.

35. LICENSING

CONTRACTOR shall maintain the appropriate licenses throughout the life of this Agreement.

////

////

////

////

(Signature page follows)

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and date first above written.

ATTEST:

KATHY HAYES

Clerk of the Board of Supervisors of the County of Humboldt, State of California

By: *An Humboldt, Deputy*

APPROVED AS TO INSURANCE:

Katya Gaudis for Don Filley
Risk Manager

COUNTY OF HUMBOLDT:

Estelle Dennell
Chair, of the Board of Supervisors

CONTRACTOR:

Val Martinez
Name
Executive Director
Title

RE Choi
Name
Finance Director
Title

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.

EXHIBIT A

SCOPE OF SERVICES FOR THE AGREEMENT WITH REDWOOD COMMUNITY ACTION AGENCY FOR MULTIPLE ASSISTANCE CENTER

1. CONTRACTOR will provide beds for an average of 40 adults referred by COUNTY from programs of the Department of Health and Human Services (DHHS). The parties contemplate a future amendment to the Agreement to increase the number of beds made available for adults as CONTRACTOR'S capacity increases. All referred individuals and couples must meet the income and eligibility requirements established by California Department of Housing and Community Development (HCD). The flexibility in beds will be based on client mix and staff capacity to serve them efficiently and safely. CONTRACTOR agrees, with the cooperation of COUNTY, to attain and maintain full capacity for an average of 40 adults.
2. When a bed becomes available at the Multiple Assistance Center (MAC), CONTRACTOR will notify COUNTY about the availability of space. COUNTY will work with CONTRACTOR to select the next appropriate adult for admission.
3. CONTRACTOR will enter all required data into the Homeless Management Information System provided by the COUNTY into a computer to be used solely for this purpose, also provided by the COUNTY. CONTRACTOR agrees to adhere to established security and confidentiality protocols regarding collection and distribution of HMIS data. CONTRACTOR agrees to share aggregate HMIS data with the COUNTY.
4. COUNTY DHHS/MAC Liaison will determine eligibility for placement at MAC using requirements agreed upon by COUNTY and CONTRACTOR. COUNTY MAC LIAISON will confer with CONTRACTOR before transporting participant to MAC for Intake.
5. If after entry to the Multiple Assistance Center, and during a two-week orientation period, CONTRACTOR determines that the referred individual or couple is inappropriate for living in a shelter setting, CONTRACTOR and COUNTY will meet, prior to the removal of the individual or couple, to discuss the issues raised by CONTRACTOR.
6. CONTRACTOR, in collaboration with the COUNTY, will establish time tracks for each resident adult to provide housing and services in the following tracks:
 - Track one: 30 days or less with Rapid Re-Housing as the goal
 - Track two: more than 30 days with Permanent Supportive Housing as the goal.

7. CONTRACTOR will provide housing assistance to persons referred by COUNTY. CONTRACTOR will provide resources and services to meet basic needs of participants including safe and secure housing with 24 hour supervision, adequate food and clothing, and access to health care. Housing assistance services to be provided include, but are not limited to: coaching participants on process of obtaining housing, developing a housing plan in conjunction with COUNTY Case Managers, assisting with completion of applications for housing and transporting participants to view potential housing, completing housing assessment to determine level of housing required, and maintaining a list of current available housing. CONTRACTOR will provide, upon COUNTY'S request, all the CONTRACTOR's documentation pertaining to any participant's case.
8. CONTRACTOR will ensure that participants residing at the Multiple Assistance Center are actively participating in his or her housing plan. When participants residing at the Multiple Assistance Center are not meeting their participation requirements, the COUNTY and CONTRACTOR will confer and implement approaches to achieve reasonable participation levels.
9. COUNTY's Case Management staff and DHHS/MAC Liaison will meet weekly with CONTRACTOR'S staff to assess participant progress toward completion of their housing plan. CONTRACTOR will submit a monthly written progress report in a format approved by COUNTY.
10. CONTRACTOR will provide secure office space, with locking door, that is not accessible to the public or any Multiple Assistance Center resident, to allow for use by COUNTY for a computer.
11. CONTRACTOR will provide secure office space, with locking door that is not accessible to the public or any MAC resident, to allow for use by law enforcement officers as a site for report-writing and breaks. This space shall allow for placement of a computer and phone line.
12. CONTRACTOR will report to COUNTY whenever a participant fails to attend any assigned activity in their housing plan. CONTRACTOR will notify COUNTY the same day that the participant misses an assigned activity.
13. CONTRACTOR will provide or arrange for the provision of Life Skill classes focused on acquiring and retaining housing. The courses will include, but are not limited to, money management, housing search, tenancy rights and responsibilities, health and nutrition, good neighbor policies, and employment readiness. CONTRACTOR, in cooperation with COUNTY, will develop acceptable Life Skill classes and class schedule. CONTRACTOR will allow COUNTY to audit the Life Skills classes and review the materials used during the classes. CONTRACTOR will provide ten (10) hours or more of the Life Skill classes to each participant each month.

14. CONTRACTOR will encourage residents to complete community service activities as their time allows without impacting their housing search. Acceptable community service activities include, but are not limited to: ground maintenance, kitchen duties, general janitorial cleaning, neighborhood trash pick-up, volunteering at community programs such as HOPE Center, and assisting other residents in housing search. CONTRACTOR is responsible to track the total number of community service hours for each resident and will report the number of community service hours to COUNTY.
15. If CONTRACTOR determines that the behavior of the resident could cause dismissal, CONTRACTOR will work with the COUNTY and resident to ensure meeting the requirements of the participant's housing plan.
16. If COUNTY determines that resident is non-compliant with his/her housing plan, and has failed to cure the non-compliance issue(s) after ten (10) days, COUNTY will contact CONTRACTOR. COUNTY and CONTRACTOR will make integrated intervention efforts to reengage the participant. If attempts to reengage the participant are unsuccessful, COUNTY will inform CONTRACTOR that resident needs to move from the Multiple Assistance Center within two (2) weeks of such notice.
17. COUNTY will inform CONTRACTOR when participant has successfully completed his/her Housing plan and no longer requires assistance. The resident should attempt to obtain permanent housing within 30 days of entry to MAC. Extensions may be granted when requested by participant if agreed upon by COUNTY and CONTRACTOR.
18. When CONTRACTOR determines the behavior of a resident warrants immediate removal from the Multiple Assistance Center, i.e. resident is endangering staff and/or other residents, CONTRACTOR will ask resident to leave. CONTRACTOR shall notify COUNTY the same day with justification for the action. CONTRACTOR will also provide justification, in writing, as to why resident was asked to leave the Multiple Assistance Center, within five (5) days of the date the resident was asked to leave.
19. When fewer than twenty-five (25) participants are residing in the rooms provided by the CONTRACTOR, CONTRACTOR will contact COUNTY DHHS/MAC Liaison to discuss the reasons why rooms are unoccupied.
20. CONTRACTOR will provide the DHHS Assistant Director for Programs monthly written reports. CONTRACTOR will provide reports in a format approved by COUNTY. CONTRACTOR will provide reports to COUNTY by the fifteenth of the month after the last day of the report month. CONTRACTOR and COUNTY will review reports quarterly to assess the goals and objectives of the program for possible amendment(s). The reports include but are not limited to:

- a) Demographic Report. Information to be reported monthly includes, but is not limited to: gender and age of participants living at the Multiple Assistance Center, whether participant(s) is a single or couple, and barriers encountered in acquiring permanent housing and employment.
 - b) Program Report. Information to be reported monthly includes, but is not limited to: a schedule of Life Skill classes offered at the Multiple Assistance Center, the number of residents scheduled to attend these classes, and the actual number of attendees in these classes; report on the community services provided at the Multiple Assistance Center including the number of participants and the total number of community service hours; report on services provided by CONTRACTOR regarding, employment, and search for permanent housing.
 - c) Management Report. Information to be reported monthly includes, but is not limited to: the number of individuals that moved into the Multiple Assistance Center and where the individual or couple was living prior to entry; the number of individuals or couples that left the Multiple Assistance Center and the type of housing they moved into, establishing that fifty (50) individuals or couples will obtain permanent housing during the year; the number of intake assessments completed; the number of individuals or couples denied residency, and the reasons why residency was denied; the track a resident was assigned upon entry to the Multiple Assistance Center and any change in the resident's track while staying at the Multiple Assistance Center; the number of residents who were employed during the month, and establishing that five (5) individuals acquire unsubsidized employment during the year; the number of residents who acquired new employment during the month; the number of residents who lost employment during the month; the length of stay for residents; status at the end of each month of the number of COUNTY beds that are occupied.
21. For the purpose of this Exhibit, "participant" and "resident" refers to the same client.

**EXHIBIT B
BUDGET**

**FOR THE AGREEMENT
WITH REDWOOD COMMUNITY ACTION AGENCY
FOR MULTIPLE ASSISTANCE CENTER
For 2015-16**

Salaries and Benefits (25.25 FTE)		
Client Support Specialists		
Kitchen Manager		
Assistant Cooks		
Supervising Mental Health Clinician		
Director of Family Services		
Program Manager		
Program Coordinator		
Office Assistant		
Office Manager		
Housing Coordinators		
Building Maintenance		
Taxes		
Workers Compensation		
Benefits		
	TOTAL	\$885,322
Licensed Kitchen		
Food		
Professional-grade cleaning supplies		
Dishwasher repair		
Range hood inspections		
Food prep licensure		
Ice machine and refrigerator repair		
Grease trap maintenance		
Kitchen and dining room supplies		
	TOTAL	\$90,506
Program Expenses		
Vehicle registrations		
Vehicle fuel		
Vehicle maintenance and repairs		
Mileage reimbursements		
Office supplies		
	TOTAL	\$5,065
Insurance		
Liability Insurance		

Business Owners Insurance		
Automobile Insurance		
	TOTAL	\$20,337
Utilities		
PG&E		
Water/Sewer		
Trash/Recycling		
Terminix Pest Control		
	TOTAL	\$33,204
Facilities		
Abandoned property / waste disposal		
Fire suppression / sprinkler system maintenance		
Strip and wax service for floors		
	TOTAL	\$ 1,925
Professional/Consulting Services		
Janitorial Services		
Copier maintenance		
Mission Linen service and supplies		
Security Services		
Evans Mechanical, building repairs		
Staff training and development		
RCAA Administration Fee @ 12.6%		
	TOTAL	\$177,173
	GRAND TOTAL	\$ 1,213,532

EXHIBIT C

COUNTY OF HUMBOLDT HIPAA BUSINESS ASSOCIATE AGREEMENT

Recitals:

- A. COUNTY, as a "Covered Entity" (defined below) wishes to disclose certain information to CONTRACTOR, hereafter known as the "BUSINESS ASSOCIATE" (defined below) pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI") (defined below).
- B. COUNTY and BUSINESS ASSOCIATE intend to protect the privacy and provide for the security of PHI disclosed to BUSINESS ASSOCIATE pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information and Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.
- C. As part of the HIPAA Regulations, the Privacy Rule and Security Rule (defined below) requires COUNTY to enter into an Agreement containing specific requirements with BUSINESS ASSOCIATE prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e), and 164.504(e) of the Code of Federal Regulations ("C.F.R") and contained in this Agreement.

The parties agree as follows:

1. **Definitions**

- a. **Breach** shall have the meaning given to such term under the HITECH Act and HIPAA Regulations [42 U.S.C. Section 17921 and 45 C.F.R. Section 164.402].
- b. **Breach Notification Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and D.
- c. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- d. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
- g. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.

- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to the term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- k. **Protected Information** shall mean PHI provided by COUNTY to BUSINESS ASSOCIATE or created, maintained, received, or transmitted by BUSINESS ASSOCIATE on COUNTY's behalf.
- l. **Security Incident** shall have the same meaning given to such term under the Security Rule, including, but not limited to, 45 C.F.R. Section 164.304.
- m. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- n. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h) and 45 C.F.R. Section 164.402.

2. **Obligations of Business Associate**

- a. **Permitted Uses.** BUSINESS ASSOCIATE shall use Protected Information only for the purpose of performing BUSINESS ASSOCIATE's obligations under the Agreement and as permitted or required under the Agreement, or as required by law. Further, BUSINESS ASSOCIATE shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by COUNTY. However, BUSINESS ASSOCIATE may use Protected Information as necessary (i) for the proper management and administration of BUSINESS ASSOCIATE; (ii) to carry out the legal responsibilities of BUSINESS ASSOCIATE; or (iii) as required by law. [45 C.F.R. Sections 164.504(e)(2), 164.504(e)(4)(i)].
- b. **Permitted Disclosures.** BUSINESS ASSOCIATE shall disclose Protected Information only for the purpose of performing BUSINESS ASSOCIATE's obligations under the Agreement and as permitted or required under the Agreement, or as required by law. BUSINESS ASSOCIATE shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by COUNTY. However, BUSINESS ASSOCIATE may disclose Protected Information as necessary (i) for the proper management and administration of BUSINESS ASSOCIATE; (ii) to carry out the legal responsibilities of BUSINESS ASSOCIATE; or (iii) as required by law. If BUSINESS ASSOCIATE discloses Protected Information to a third party, BUSINESS ASSOCIATE must obtain, prior to making any such disclosure,

- (i) reasonable *written* assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and used or disclosed only as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BUSINESS ASSOCIATE of any breaches, suspected breaches, security incidents, or unauthorized uses or disclosures of the Protected Information in accordance with paragraph 2.i. of the Agreement, to the extent it has obtained knowledge of such occurrences [42 U.S.C. Section 17932; 45 C.F.R. Section 164.504(e)].
- c. **Prohibited Uses and Disclosures.** BUSINESS ASSOCIATE shall not use or disclose PHI other than as permitted or required by the Agreement, or as required by law. BUSINESS ASSOCIATE shall not use or disclose Protected Information for fundraising or marketing purposes. BUSINESS ASSOCIATE shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which PHI solely relates [42 U.S.C. Section 17935(a) and 45 C.F.R. Section 164.522(a)(vi)]. BUSINESS ASSOCIATE shall not directly or indirectly receive remuneration in exchange for Protected Information, except with prior written consent of COUNTY and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2), and the HIPAA regulations, 45 C.F.R. Section 164.502(a)(5)(ii); however this prohibition shall not affect payment by COUNTY to BUSINESS ASSOCIATE for services provided pursuant to the Agreement.
- d. **Appropriate Safeguards.** BUSINESS ASSOCIATE shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Agreement, including, but not limited to, administrative, physical and technical safeguards in accordance with the Security Rule, including but not limited to, 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. BUSINESS ASSOCIATE shall comply with the policies, procedures and documentation requirements of the Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. [42 U.S.C. Section 17931].
- e. **Business Associate's Subcontractors and Agents.** BUSINESS ASSOCIATE shall ensure that any agents and subcontractors that create, receive, maintain or transmit Protected Information on behalf of COUNTY, agree in writing to the same restrictions and conditions that apply to COUNTY with respect to such Protected Information and implement the safeguards required by paragraph 2.d. above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BUSINESS ASSOCIATE shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
- f. **Access to Protected Information.** If BUSINESS ASSOCIATE maintains a designated record set on behalf of COUNTY, BUSINESS ASSOCIATE shall make Protected Information maintained by BUSINESS ASSOCIATE or its agents or subcontractors in Designated Record Sets available to COUNTY for inspection and copying within five (5) days of a request by COUNTY to enable COUNTY to

fulfill its obligations under state law [California Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(e)]. If BUSINESS ASSOCIATE maintains Protected Information in electronic format, BUSINESS ASSOCIATE shall provide such information in electronic format as necessary to enable COUNTY to fulfill its obligations under the HITECH Act and HIPAA Regulations, including, but not limited to, 42 U.S.C. Section 17935(e) and 45 C.F.R. Section 164.524.

- g. **Amendment of PHI.** If BUSINESS ASSOCIATE maintains a designated record set on behalf of COUNTY, within ten (10) days of a request by COUNTY for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BUSINESS ASSOCIATE and its agents and subcontractors shall make such Protected Information available to COUNTY for amendment and incorporate any such amendment or other documentation to enable COUNTY to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If an individual requests an amendment of Protected Information directly from BUSINESS ASSOCIATE or its agents or subcontractors, BUSINESS ASSOCIATE must notify COUNTY in writing within five (5) days of the request and of any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
- h. **Accounting of Disclosures.** Within ten (10) days of a request by COUNTY for an accounting of disclosures of Protected Information, BUSINESS ASSOCIATE and its agents and subcontractors shall make available to COUNTY the information required to provide an accounting of disclosures to enable COUNTY to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by COUNTY. BUSINESS ASSOCIATE agrees to implement a process that allows for an accounting to be collected and maintained by BUSINESS ASSOCIATE and its agents and subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BUSINESS ASSOCIATE maintains an Electronic Health Record. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. If a patient submits a request for an accounting directly to BUSINESS ASSOCIATE or its agents or subcontractors, BUSINESS ASSOCIATE shall within five (5) days of the request forward it to COUNTY in writing.
- i. **Governmental Access to Records.** BUSINESS ASSOCIATE shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to COUNTY and to the Secretary of the U.S.

Department of Health and Human Services (the "Secretary") for purposes of determining BUSINESS ASSOCIATE's compliance with HIPAA [45 C.F.R. Section 164.504(e)(2)(ii)(I)]. BUSINESS ASSOCIATE shall provide COUNTY a copy of any Protected Information and other documents and records that BUSINESS ASSOCIATE provides to the Secretary concurrently with providing such Protected Information to the Secretary.

- j. **Minimum Necessary.** BUSINESS ASSOCIATES, its agents and subcontractors shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)]. BUSINESS ASSOCIATE understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- k. **Data Ownership.** BUSINESS ASSOCIATE understands that BUSINESS ASSOCIATE has no ownership rights with respect to the Protected Information.
- l. **Notification of Possible Breach.** BUSINESS ASSOCIATE shall notify COUNTY within twenty-four (24) hours of any suspected or actual breach of Protected Information; any use or disclosure of Protected Information not permitted by the Agreement; any security incident (i.e., any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system) related to Protected Information, and any actual or suspected use or disclosure of data in violation of any applicable federal or state laws by BUSINESS ASSOCIATE or its agents or subcontractors. The notification shall include, to the extent possible, the identification of each individual whose unsecured Protected Information has been, or is reasonably believed by the BUSINESS ASSOCIATE to have been accessed, acquired, used, or disclosed, as well as any other available information that COUNTY is required to include in notification to the individual, the media, the Secretary, and any other entity under the Breach Notification Rule and any other applicable state or federal laws, including, but not limited, to 45 C.F.R. Section 164.404 through 45 C.F.R. Section 164.408, at the time of the notification required by this paragraph or promptly thereafter as information becomes available. BUSINESS ASSOCIATE shall take (i) prompt corrective action to cure any deficiencies and (ii) any action pertaining to unauthorized uses or disclosures required by applicable federal and state laws. [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
- m. **Breach Pattern or Practice by Business Associate's Subcontractors and Agents.** Pursuant to 42 U.S.C. Section 17934(b) and 45 C.F.R. Section 164.504(e)(1)(ii), if BUSINESS ASSOCIATE knows of a pattern or activity or practice of a subcontractor or agent that constitutes a material breach or violation of the subcontractor or agent's obligations under the Agreement or other arrangement, BUSINESS ASSOCIATE must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, BUSINESS ASSOCIATE must terminate the Agreement or other arrangement if feasible. BUSINESS ASSOCIATE shall provide written notice to COUNTY of any pattern of activity or practice of a subcontractor or agent that BUSINESS ASSOCIATE believes constitutes a material breach or violation of the subcontractor or agent's

obligations under the Agreement or other arrangement within five (5) days of discovery and shall meet with COUNTY to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

- n. **Audits, Inspection and Enforcement.** Within ten (10) days of a request by COUNTY, BUSINESS ASSOCIATE and its agents and subcontractors shall allow COUNTY or its agents or subcontractors to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Agreement for the purpose of determining whether BUSINESS ASSOCIATE has complied with this Agreement or maintains adequate security safeguards. BUSINESS ASSOCIATE shall notify COUNTY within five (5) days of learning that BUSINESS ASSOCIATE has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights or other state or federal government entity.

3. **Termination**

- a. **Material Breach.** A breach by BUSINESS ASSOCIATE of any provision of this Agreement, as determined by COUNTY, shall constitute a material breach of the Agreement and shall provide grounds for *immediate* termination of the Agreement, any provision in the Agreement to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].
- b. **Effect of Termination.** Upon termination of the Agreement for any reason, BUSINESS ASSOCIATE shall, at the option of COUNTY, return or destroy all Protected Information that BUSINESS ASSOCIATE or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by COUNTY, BUSINESS ASSOCIATE shall continue to extend the protections of Section 2 of this Agreement to such information, and limit further use and disclosure of such PHI to those purposes that make the return or destruction of the information infeasible [45 C.F.R. Section 164.504(e)(ii)(2)(J)]. If COUNTY elects destruction of the PHI, BUSINESS ASSOCIATE shall certify in writing to COUNTY that such PHI has been destroyed in accordance with the Secretary's guidance regarding proper destruction of PHI.

4. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, and the HIPAA regulations.