



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C13

For the meeting of: February 13, 2018

Date: January 18, 2018
To: Board of Supervisors
From: Connie Beck, Director *CB*
Department of Health and Human Services

Subject: Agreement with JUMP Technology Services for Software License for LEAPS Program

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve the Agreement with JUMP Technology Services for Software License for LEAPS Program (Attachment 1);
2. Authorize the Chair to sign three (3) originals of the Agreement with JUMP Technology Services;
3. Direct the Clerk of the Board to return two (2) signed originals of the Agreement to the DHHS Contracts Unit for forwarding to DHHS Mental Health Administration.

SOURCE OF FUNDING: Realignment Fund

DISCUSSION:

Prior to December 2016, Adult Protective Services (APS) used a Database Program called AACTS (originally owned by MMTG - McWilliams Mailliard Technology Group). In order to use the AACTS

Prepared by Janae Teal, Staff Services Analyst

CAO Approval *Elisha Heg*

REVIEW:

Auditor *WJH* County Counsel *Sm* Human Resources *KLB* 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 *Fennell*

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

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

Dated: *2/13/18*

By: *[Signature]*
Kathy Hayes, Clerk of the Board

program, one must have also had access to a program called CareAccess (which served as the web portal for the AACTS program) – two different programs and two different contracts.

In July 2016 our county was contacted by MMTG and informed that they were in the process of selling AACTS to another company. In August 2016, JUMP Technology Services purchased AACTS from MMTG, bringing all AACTS counties over to the JUMP platform. Humboldt County gained access to the JUMP portal in September 2015.

During this time, Humboldt was still using the AACTS/CareAccess programming, but we were aware that JUMP Technology Services hosts its own APS Database Program (LEAPS) that resembled AACTS in many ways. It became apparent through conversations with both AACTS and JUMP that many AACTS-using counties were transitioning to LEAPS. While this did not greatly impact AACTS, it greatly impacted CareAccess, who were losing customers as people left AACTS to join LEAPS.

On September 29, Humboldt County was contacted by CareAccess informing us that after January 1, 2017 they would no longer be providing services for the AACTS database. Without CareAccess, the AACTS program was unusable. As a result of this cancelation, all AACTS users were automatically being switched over to the LEAPS program (no choice was given as JUMP took over all AACTS contracts, as is).

JUMP currently provides LEAPS programming to 36 counties in California; this number is expected to increase to nearly all counties by 2018. LEAPS is fundamental to the work done in APS. It serves as the primary investigation and case management software. It also serves as the case tracking system, and MDT monitoring program.

FINANCIAL IMPACT:

The agreement with JUMP Technology Services is for a maximum of \$54,936 for the 2 year contract period ending June 30, 2019. This agreement resides in fund 1160, budget unit 504 – Older Adults and was included in the county approved budget for fiscal year 2017-18. The costs associated with this agreement remains consistent with the previous agreement and will continue to be included in the proposed budget for fiscal year 2018-19. There is no impact to the county general fund.

This action supports the Board's strategic Framework by providing for and maintaining infrastructure while protecting vulnerable populations.

OTHER AGENCY INVOLVEMENT: None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the Agreement; however, this alternative is not recommended. Without the LEAPS program, APS would be required to track investigations, case management, case files, and MDTs by hand, or through another, less secure platform. This is not recommended as we need this program to efficiently serve elders and vulnerable adults in our community. Approving this agreement will support the Board's Strategic Framework by providing and maintaining infrastructure.

ATTACHMENTS:

Attachment 1: Agreement with JUMP Technology Services for software and services (3 originals)

Attachment 2: Certificate of Liability Insurance for JUMP Technology Services

**SOFTWARE LICENSE AND SUPPORT SERVICES AGREEMENT
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
JUMP TECHNOLOGY SERVICES, LLC
FOR FISCAL YEARS 2017-2018 THROUGH 2018-2019**

This Agreement, entered into this 13th day of February, 2018, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Jump Technology Services, LLC, an Oklahoma Limited Liability Company, hereinafter referred to as "CONTRACTOR," is made upon the following considerations:

WHEREAS, COUNTY, by and through its Department of Health and Human Services – Social Services ("DHHS – Social Services"), desires to retain a qualified professional firm to implement, host and maintain the LEAPS adult protective services software and provide training services related to the use and operation of such software; and

WHEREAS, such work involves the performance of professional, expert and technical services of a temporary and occasional character; and

WHEREAS, COUNTY has no employees available to perform such services and is unable to hire employees for the performance thereof for the temporary period; and

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced and qualified to perform such services.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. GRANT OF LICENSE AND DESCRIPTION OF SERVICES:

- A. Grant of License to Use Software. Subject to the terms and conditions of this Agreement, CONTRACTOR hereby grants to COUNTY a non-exclusive, non-transferable and non-sublicensable license for eleven (11) to twenty (20) COUNTY staff members to access and use the LEAPS adult protective services software system.
- B. Technical Support and Training Services. CONTRACTOR hereby agrees to provide the implementation, hosting, maintenance and training services described in Exhibit A – Scope of Services, which is attached hereto and incorporated herein by reference. In providing such services, CONTRACTOR agrees to fully cooperate with the DHHS – Social Services Director or designee thereof, hereinafter referred to as "Director."

2. TERM:

This Agreement shall begin upon execution by both parties and shall remain in full force and effect until June 30, 2019, unless sooner terminated as provided herein.

3. TERMINATION:

- A. Breach of Contract. Either party may immediately terminate this Agreement, upon notice thereof, in the event the other party materially defaults in performing any obligation under this Agreement, including, but not limited to, the confidentiality and payment provisions set forth herein, or violates any ordinance, regulation or other law applicable to its performance herein.

- B. Without Cause. COUNTY may terminate this Agreement without cause upon sixty (60) days advance written notice. Such notice shall state the effective date of the termination.
- C. Insufficient Funding. COUNTY's obligations under this Agreement are contingent upon the availability of local, state and/or federal funds. In the event such funding is reduced or eliminated, COUNTY shall, at its sole discretion, determine whether this Agreement shall be terminated. COUNTY shall provide CONTRACTOR seven (7) days advance written notice of its intent to terminate this Agreement due to insufficient funding.
- D. Compensation Upon Termination. In the event of any termination of this Agreement, CONTRACTOR shall be entitled to compensation for unpaid license and service fees incurred pursuant to the terms and conditions of this Agreement through and including the effective date of such termination. However, this provision shall not limit or reduce any damages owed to COUNTY due to a breach of this Agreement by CONTRACTOR.

4. COMPENSATION:

- A. Maximum Amount Payable. The maximum amount payable by COUNTY for the licenses and services provided, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement is Fifty-Four Thousand Nine Hundred Thirty-Six Dollars (\$54,936.00). CONTRACTOR agrees to provide all licenses and perform all services required by this Agreement for an amount not to exceed such maximum dollar amount. However, if local, state or federal funding or allowance rates are reduced or eliminated, COUNTY may, by amendment, reduce the maximum amount payable for the licenses and services provided hereunder, or terminate this Agreement as provided herein.
- B. Schedule of Rates. The specific rates and costs applicable to this Agreement are set forth in Exhibit B – Schedule of Rates, which is attached hereto and incorporated herein by reference.
- C. Additional Services. Any additional licenses and services not otherwise provided for herein shall not be provided by CONTRACTOR, or compensated by COUNTY, without written authorization by COUNTY. All unauthorized costs and expenses incurred above the maximum dollar amount set forth herein shall be the responsibility of CONTRACTOR. CONTRACTOR shall notify COUNTY, in writing, at least six (6) weeks prior to the date upon which CONTRACTOR estimates that the maximum dollar amount will be reached.

5. PAYMENT:

CONTRACTOR shall submit to COUNTY quarterly invoices itemizing all of the licenses and services provided, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement. Invoices shall be in a format approved by, and shall include backup documentation as specified by, Director and the Humboldt County Auditor-Controller. CONTRACTOR shall submit a final invoice for payment within thirty (30) days following the expiration or termination date of this Agreement. Payment for the licenses and services provided, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement will be made within thirty (30) days after the receipt of approved invoices. All invoices submitted by CONTRACTOR shall be sent to COUNTY at the following address:

COUNTY: Humboldt County DHHS – Social Services
Attention: Keri Schrock, Program Manager
808 E Street
Eureka, California 95501

6. NOTICES:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

COUNTY: Humboldt County DHHS – Social Services
Attention: Keri Schrock, Program Manager
808 E Street
Eureka, California 95501

CONTRACTOR: Jump Technology Services, LLC
Attention: Denise Brinkmeyer, President and CEO
200 Russell M. Perry Avenue
Oklahoma City, Oklahoma 73104

7. REPORTS:

CONTRACTOR agrees to provide COUNTY with any and all reports that may be required by local, state and/or federal agencies for compliance with this Agreement. Reports shall be submitted no later than fifteen (15) days after the end of each calendar quarter using the format required by the State of California as appropriate.

8. RECORD RETENTION AND INSPECTION:

- A. Maintenance and Preservation of Records. CONTRACTOR agrees to timely prepare accurate and complete financial, performance and payroll records, documents and other evidence relating to the licenses and services provided hereunder, and to maintain and preserve said records for at least three (3) years from the date of final payment under this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising therefrom. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the licenses and services provided pursuant to the terms and conditions of this Agreement.
- B. Inspection of Records. Pursuant to California Government Code Section 8546.7, all records, documents, conditions and activities of CONTRACTOR, and its subcontractors, related to the licenses and services provided hereunder, shall be subject to the examination and audit of the California State Auditor and any other duly authorized agents of the State of California for a period of three (3) years after final payment under this Agreement. CONTRACTOR hereby agrees to make all such records available during normal business hours to inspection, audit and reproduction by COUNTY and any duly authorized local, state and/or federal agencies. CONTRACTOR further agrees to allow interviews of any of its employees who might reasonably have information related to such records by COUNTY and any duly authorized local, state and/or federal agencies. All examinations and audits conducted hereunder shall be strictly confined to those matters connected with the performance of this Agreement, including, but not limited to, the costs of administering this Agreement.
- C. Audit Costs. In the event of an audit exception or exceptions related to the licenses and/or services provided pursuant to the terms and conditions of this Agreement, the party responsible for not meeting the requirements set forth herein shall be responsible for the deficiency and for the cost of the audit. If the allowable expenditures cannot be determined because

CONTRACTOR's documentation is nonexistent or inadequate, according to generally accepted accounting practices, the questionable cost shall be disallowed by COUNTY.

9. MONITORING:

CONTRACTOR agrees that COUNTY has the right to monitor all activities related to this Agreement, including, without limitation, the right to review and monitor CONTRACTOR's records, policies or procedures, at any time, as well as the overall operation of CONTRACTOR's business functions, in order to ensure compliance with the terms and conditions of this Agreement. CONTRACTOR will cooperate with a corrective action plan, if deficiencies in CONTRACTOR's records, policies or procedures are identified by COUNTY. However, COUNTY is not responsible, and will not be held accountable, for overseeing or evaluating the adequacy of the results of CONTRACTOR's performance under this Agreement.

10. CONFIDENTIAL INFORMATION:

- A. Disclosure of Confidential Information. In the performance of this Agreement, CONTRACTOR may receive information that is confidential under local, state or federal law. CONTRACTOR hereby agrees to protect all confidential information in conformance with any and all applicable local, state and federal laws, regulations, policies, procedures and standards, including, but not limited to: Division 19 of the California Department of Social Services Manual of Policies and Procedures – Confidentiality of Information; California Welfare and Institutions Code Sections 827, 5328, 10850 and 14100.2; California Health and Safety Code Sections 1280.15 and 1280.18; the California Information Practices Act of 1977; the California Confidentiality of Medical Information Act ("CMIA"); the United States Health Information Technology for Economic and Clinical Health Act ("HITECH Act"); the United States Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and any current and future implementing regulations promulgated thereunder, including, without limitation, the Federal Privacy Regulations contained in Title 45 of the Code of Federal Regulations ("C.F.R.") Parts 160 and 164, the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164 and the Federal Standards for Electronic Transactions contained in 45 C.F.R. Parts 160 and 162, all as may be amended from time to time.
- B. HIPAA Business Associate Agreement. CONTRACTOR hereby agrees to adhere to the terms and conditions set forth in Exhibit C – County of Humboldt HIPAA Business Associate Agreement, which is attached hereto and incorporated herein by reference. A breach of the attached Business Associate Agreement shall constitute a material breach of this Agreement.
- C. Continuing Compliance with Confidentiality Laws. The parties acknowledge that local, state and federal laws, regulations and standards pertaining to confidentiality, electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. Each party agrees to promptly enter into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws, regulations or standards.

11. NON-DISCRIMINATION COMPLIANCE:

- A. Nondiscriminatory Delivery of Social Services. In connection with the execution of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate in the administration of public assistance and social services programs. CONTRACTOR hereby assures that no person shall be excluded from participation in, be denied benefits of, or be

subjected to discrimination under any program or activity receiving local, state or federal financial assistance because of race, religion or religious creed, color, age (over forty (40) years of age), 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), political affiliation, military service or any other classifications protected by local, state or federal laws or regulations. COUNTY reserves the right to monitor the services provided pursuant to the terms of this Agreement to ensure compliance with this provision.

- B. Professional Services and Employment. In connection with the execution of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate in the provision of professional services or against any employee or applicant for employment because of race, religion or religious creed, color, age (over forty (40) years of age), 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), political affiliation, military service, denial of family care leave or any other classifications protected by local, state or federal laws or regulations. Nothing herein shall be construed to require the employment of unqualified persons.
- C. Compliance with Anti-Discrimination Laws. CONTRACTOR further assures that it, and its subcontractors, will abide by the applicable provisions of: Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Sections 51, et seq.; California Government Code Sections 4450, et seq.; California Welfare and Institutions Code Section 10000; Division 21 of the California Department of Social Services Manual of Policies and Procedures; United States Executive Order 11246, as amended and supplemented by United States Executive Order 11375 and 41 C.F.R. Part 60; and any other applicable local, state and/or federal laws and regulations, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission implementing California Government Code Section 12990, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

12. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

CONTRACTOR certifies by its signature below that it 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 subsequently becomes a Nuclear Weapons Contractor.

13. DRUG-FREE WORKPLACE:

By executing this Agreement, CONTRACTOR certifies that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (California Government Code Sections 8350, et seq.) and will provide a drug-free workplace by doing all of the following:

- A. Drug-Free Policy Statement. Publish, as required by California Government Code Section

8355(a)(1), a Drug-Free Policy Statement which notifies employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited, and specifies the actions to be taken against employees for violations.

B. Drug-Free Awareness Program. Establish, as required by California Government Code Section 8355(a)(2), a Drug-Free Awareness Program which informs employees about the following:

1. The dangers of drug abuse in the workplace;
2. CONTRACTOR's policy of maintaining a drug-free workplace;
3. Any available counseling, rehabilitation and employee assistance programs; and
4. Penalties that may be imposed upon employees for drug abuse violations.

C. Drug-Free Employment Agreement. Ensure, as required by California Government Code Section 8355(a)(3), that every employee who provides services pursuant to the terms and conditions of this Agreement will:

1. Receive a copy of CONTRACTOR's Drug-Free Policy Statement; and
2. Agree to abide by CONTRACTOR's Drug-Free Policy as a condition of employment.

D. Effect of Noncompliance. Failure to comply with the above-referenced requirements may result in suspension of payments under this Agreement and/or termination thereof, and CONTRACTOR may be ineligible for award of future contracts if COUNTY determines that the foregoing certification is false or if CONTRACTOR violates the certification by failing to carry out the above-referenced requirements.

14. INDEMNIFICATION:

- A. General Indemnification. Each party hereto shall hold harmless, defend and indemnify the other party and its agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages, liabilities, expenses and costs of any kind or nature, including, without limitation, attorney's fees and other costs of litigation, arising out of, or in connection with, the negligent performance of, or failure to comply with, any of the duties and/or obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of the other party or its agents, officers, officials, employees or volunteers.
- B. Third-Party Software Indemnification. CONTRACTOR shall hold harmless, defend and indemnify COUNTY, and its agents, officers, officials, employees and volunteers from and against any and all claims that the licenses and/or services provided pursuant to the terms and conditions of this Agreement infringe or misappropriate any third-party's patent, copyright, trademark, trade secret or other intellectual property rights, and will be responsible for any adverse final judgment or settlement, to which CONTRACTOR consents, resulting from such claims of infringement or misappropriation. COUNTY shall promptly notify CONTRACTOR in writing of such claims of infringement or misappropriation and give CONTRACTOR sole control over its defense and settlement. COUNTY agrees to provide CONTRACTOR with reasonable assistance, cooperation and information relating to the defense any claims of infringement or misappropriation. If, due to a claim of infringement or misappropriation, the licenses and/or services provided pursuant to the terms and conditions of this Agreement are held by a court of competent jurisdiction to be infringing, CONTRACTOR may, at its option and

expense, replace or modify the licenses and/or services to be non-infringing, obtain a license which allows COUNTY to continue using the software or terminate this Agreement and provide COUNTY a refund of any prepaid, unused fees.

- C. Comparative Liability. Notwithstanding anything to the contrary, in the event that both parties are held to be negligently or willfully responsible, each party will bear their proportionate share of liability as determined in any such proceeding. In such cases, each party will bear their own costs and attorney's fees.
- D. Effect of Insurance. Acceptance of the insurance required by this Agreement shall not relieve CONTRACTOR from liability under this provision. This provision shall apply to all claims for damages related to the licenses and/or services provided pursuant to the terms and conditions of this Agreement regardless of whether any insurance is applicable or not. The insurance policy limits set forth herein shall not act as a limitation upon the amount of indemnification or defense to be provided by CONTRACTOR hereunder.

15. INSURANCE REQUIREMENTS:

This Agreement shall not be executed by COUNTY, and CONTRACTOR is not entitled to any rights hereunder, unless certificates of insurance, or other proof that the following provisions have been complied with, are filed with the Clerk of the Humboldt County Board of Supervisors.

- A. General Insurance Requirements. Without limiting CONTRACTOR's indemnification obligations provided for herein, CONTRACTOR shall, and shall require that all subcontractors hereunder, take out and maintain, throughout the entire period of this Agreement, and any extended term thereof, the following policies of insurance, placed with insurers authorized to do business in the State of California with a current A.M. Bests rating of no less than A: VII or its equivalent against personal injury, death and property damage which may arise from, or in connection with, the activities of CONTRACTOR and its agents, officers, directors, employees, licensees, invitees, assignees 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 (\$2,000,000.00) per occurrence for any one (1) incident, including, but not limited to, personal injury, death and property damage.
 - 2. CONTRACTOR will not drive an automobile in the performance of the services provided pursuant to the terms and conditions of this Agreement. If CONTRACTOR's responsibilities are changed in such a way that driving will be required during, or in connection with, the performance of the services required hereunder, CONTRACTOR will take out and maintain Automobile/Motor Liability Insurance with a limit of liability not less than One Million Dollars (\$1,000,000.00) combined single limit coverage. Such insurance shall include coverage of all owned, hired and non-owned vehicles. Said coverage shall be at least as broad as Insurance Service Offices Form Code 1 (any auto).
 - 3. Workers' Compensation Insurance, as required by the Labor Code of the State of California, with statutory limits, and Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against COUNTY, its agents, officers, officials, employees and volunteers.
 - 4. Professional Liability Insurance – Error and Omission Coverage including coverage in an

amount no less than Two Million Dollars (\$2,000,000.00) for each occurrence (Three million Dollars (\$4,000,000.00) general aggregate). Said insurance shall be maintained for the statutory period during which CONTRACTOR may be exposed to liability. CONTRACTOR shall require that such coverage be incorporated into its professional services agreements with any other entities.

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

1. The Comprehensive or Commercial General Liability Policy shall provide that COUNTY and its agents, 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 COUNTY or its agents, 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 as "XCU Hazards."
 - c. Is the primary insurance with regard to COUNTY.
 - d. Does not contain a pro-rata, excess only and/or escape clause.
 - e. Contains a cross liability, severability of interest or separation of insureds clause.
2. The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY in accordance with the notice provisions set forth herein. It is further understood that CONTRACTOR shall not terminate such coverage until COUNTY receives adequate proof that equal or better insurance has been secured.
3. The inclusion of more than one (1) insured shall not operate to impair the rights of one (1) 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 (1) insured shall not operate to increase the limits of the insurer's liability.
4. For claims related to this Agreement, CONTRACTOR's insurance is the primary coverage to COUNTY, and any insurance or self-insurance programs maintained thereby are excess to CONTRACTOR's insurance and will not be used to contribute therewith.
5. Any failure to comply with the provisions of this Agreement shall not affect coverage provided to COUNTY or its agents, 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. The endorsements shall be on forms approved by the Humboldt County Risk Manager or County Counsel. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000.00) 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

available remedies, take out the necessary insurance, and CONTRACTOR agrees to pay the cost thereof. COUNTY is also hereby authorized with discretion to deduct the cost of said insurance from the monies owed to CONTRACTOR under this Agreement.

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 above-referenced aggregate limits.

- C. Insurance Notices. Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice provisions described herein.

COUNTY: County of Humboldt
Attention: Risk Management
825 Fifth Street, Room 131
Eureka, California 95501

CONTRACTOR: Jump Technology Services, LLC
Attention: Denise Brinkmeyer, President and CEO
200 Russell M. Perry Avenue
Oklahoma City, Oklahoma 73104

16. ASSIGNMENT:

Neither party shall delegate its duties nor assign its rights hereunder, either in whole or in part, without the other party's prior written consent. Any assignment by CONTRACTOR in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement. This provision shall not be applicable to service agreements or other arrangements usually or customarily entered into by either party to obtain supplies, technical support or professional services.

17. RELATIONSHIP OF PARTIES:

It is understood that this Agreement is by and between two (2) independent entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or any other similar association. Both parties further agree that CONTRACTOR shall not be entitled to any benefits to which COUNTY employees are entitled, including, but not limited to, overtime, retirement benefits, leave benefits or workers' compensation. CONTRACTOR shall be solely responsible for the acts or omissions of its agents, officers, employees, assignees and subcontractors.

18. COMPLIANCE WITH APPLICABLE LAWS AND LICENSURE REQUIREMENTS:

CONTRACTOR agrees to comply with any and all local, state and federal laws, regulations, policies and procedures applicable to the licenses and services provided pursuant to the terms and conditions of this Agreement. CONTRACTOR further agrees to comply with any and all applicable local, state and federal licensure and certification requirements.

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19. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations, or conditions that may affect the provisions, terms or funding of this Agreement. This Agreement shall

be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.

20. REFERENCE TO LAWS AND RULES:

In the event any law, regulation, policy or procedure referred to in this Agreement is amended during the term hereof, the parties agree to comply with the amended provision as of the effective date of such amendment.

21. PROTOCOLS:

Both parties recognize that the inclusion of additional protocols may be required to make this Agreement specific. All such protocols shall be negotiated, determined and agreed upon by Director and CONTRACTOR.

22. 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.

23. AGREEMENT SHALL BIND SUCCESSORS:

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 permitted assigns.

24. 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 CONTRACTOR. Nor shall such payment impair or prejudice any remedy available to COUNTY with respect to any breach or default. COUNTY shall have the right to demand repayment of, and CONTRACTOR shall promptly refund, any funds disbursed to CONTRACTOR which, in the judgment of COUNTY, were not expended in accordance with the terms of this Agreement.

25. NON-LIABILITY OF COUNTY OFFICIALS AND EMPLOYEES:

No official or employee of COUNTY shall be personally liable for any default or liability under this Agreement.

26. AMENDMENT:

This Agreement may be amended at any time during the term of this Agreement upon the mutual consent of both parties. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

27. STANDARD OF PRACTICE:

CONTRACTOR warrants that it 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.

28. TITLE TO INFORMATION AND DOCUMENTS:

It is understood that any and all documents, information and reports concerning the subject matter of this Agreement prepared and/or submitted by CONTRACTOR shall become the property of COUNTY. However, CONTRACTOR may retain copies of such documents and information for its records. In the event of termination of this Agreement, for any reason whatsoever, CONTRACTOR shall promptly turn over all information, writings and documents pertaining to the licenses and services provided hereunder to COUNTY without exception or reservation.

29. JURISDICTION AND VENUE:

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

30. ADVERTISING AND MEDIA RELEASE:

All informational material related to this Agreement shall receive approval from COUNTY prior to being used as advertising or released to the media, including, but not limited to, television, radio, newspapers and internet. CONTRACTOR shall inform COUNTY of all requests for interviews by the media related to this Agreement before such interviews take place; and COUNTY shall be entitled to have a representative present at such interviews. All notices required by this provision shall be given to Director.

31. SUBCONTRACTS:

CONTRACTOR shall obtain prior written approval from COUNTY before subcontracting any of the services to be provided hereunder. Any and all subcontracts shall be subject to all applicable terms and conditions of this Agreement, including, without limitation, the licensing, certification and confidentiality requirements set forth herein. CONTRACTOR shall remain legally responsible for the performance of all terms and conditions of this Agreement, including work performed by third parties under subcontracts, whether approved by COUNTY or not.

32. ATTORNEYS' FEES:

If either party shall commence any legal action, 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 shall be entitled to recover court costs and reasonable attorneys' fees, including the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorneys' fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action 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.

33. SURVIVAL:

The duties and obligations of the parties set forth in Section 3(D) – Compensation Upon Termination, Section 8 – Record Retention and Inspection, Section 10 – Confidential Information and Section 14 –

Indemnification shall survive the expiration or termination of this Agreement.

34. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in this Agreement, the terms and conditions set forth herein shall have priority.

35. INTERPRETATION:

This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

36. INDEPENDENT CONSTRUCTION:

The titles of the sections, subsections and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

37. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

38. ENTIRE AGREEMENT:

This Agreement contains all of 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 their entirety any and all prior agreements, promises, representations, understandings and negotiations of the parties, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms and conditions of this Agreement are hereby ratified.

39. AUTHORITY TO EXECUTE:

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

[Signatures on Following Page]

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

JUMP TECHNOLOGY SERVICES, LLC:

By: Denise M. Brinkmeyer
Denise Brinkmeyer
President and CEO

Date: 1/12/2018

COUNTY OF HUMBOLDT:

By: Ryan Sundberg
RYAN SUNDBERG
Chair, Humboldt County Board of Supervisors

Date: 2/13/18

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: K. Lyons
Risk Management

Date: 1/31/18

LIST OF EXHIBITS:

Exhibit A – Scope of Services
Exhibit B – Schedule of Rates
Exhibit C – HIPPA Business Associate Agreement
Exhibit D – Holiday Schedule

EXHIBIT A
SCOPE OF SERVICES

Jump Technology Services, LLC
For Fiscal Years 2017-2018 through 2018-2019

1. DEFINITIONS:

- 1.1 Administrative Site.** As used herein, the term “Administrative Site” shall mean the top level organizational unit overseeing program functions. Hosting agreements are made for the number of users per Administrative Site. For example, if administration is county based, then each county shall have an administrative site and web address for its installation of Hosted Adult Protective Service. If administration is statewide, then one administrative site would cover the operations of the program across the state.
- 1.2 Enhancement.** As used herein, the term “Enhancement” shall mean any modification or addition that, when made or added to a Program, materially changes its utility, efficiency, functional capability, but that does not constitute solely an Error Correction. Enhancements may be designated by CONTRACTOR as minor or major, depending on CONTRACTOR’s assessment of their value and of the function added to a Program.
- 1.3 Error.** As used herein, the term “Error” shall mean any failure of a Program to conform in all material responses to its functional specifications as documented in the Program manuals.
- 1.4 Error Correction.** As used herein, the term “Error Correction” shall mean either a modification or an addition that, when made or added to a Program, establishes material conformity of the Program to the functional specifications or a procedure or routine that, when observed in the regular operation of the Program, eliminates the practical adverse effect on COUNTY of such nonconformity
- 1.5 Maintenance Services.** As used herein, the term “Maintenance Services” shall mean the services provided under CONTRACTOR’s Maintenance and Support Services policy in effect on the date such services are ordered. A copy of CONTRACTOR’s Maintenance and Support Services policy is below.
- 1.6 Major Release.** As used herein, the term “Major Release” shall mean a new version of the Program that includes Enhancements, upgrade in features, functionality or performance of the Program which CONTRACTOR licenses separately or offers for an additional fee.
- 1.7 Programs.** As used herein, the term “Programs” shall mean the program(s) licensed to COUNTY by CONTRACTOR as identified in the License Agreement or owned by COUNTY in the event CONTRACTOR is contracting for support services of a software program CONTRACTOR does not own.
- 1.8 Updates.** As used herein, the term “Updates” shall mean subsequent releases of the Major Release that provide minor Enhancements or Error Corrections. Updates are made available at no charge to Programs receiving Service.

2.0 MAINTENANCE SUPPORT SERVICES:

- 2.1 Definition of Support Services.** COUNTY may contact us via the customer support portal or assigned after hours phone numbers. CONTRACTOR's analyst will respond to COUNTY's Program inquiries, coordinate resolution of Program problems, including the verification of any

reported errors, provide acceptable problem workaround, and communicate with designated COUNTY contacts on status and/or for additional problem information and supply the Error Corrections and/or Update Release, as necessary.

- 2.2 Support Plan.** COUNTY may access support through the customer support portal during normal business hours. Normal business hours are between 7 a.m. and 7 p.m. Central Standard Time (“CST”), Monday through Friday, excluding national and CONTRACTOR company holidays. A list of CONTRACTOR company holidays is attached hereto as Exhibit D – Holiday Schedule, and is subject to change from year to year. The total number of CONTRACTOR company holidays is not to exceed ten (10) days per year. For after-hours contacts, CONTRACTOR will provide two, emergency contact numbers.
- 2.3 Support Services.** Maintenance support services provided pursuant to the terms and conditions of this Agreement include, without limitation, all of the following:
- 2.3.1** Access to support service through the customer support portal or after-hours phone number.
 - 2.3.2** Access to support services by up to three (3) designated COUNTY contacts.
 - 2.3.3** Access to available Update Release documentation.
 - 2.3.4** Web access provides:
 - 2.3.4.1** Submitting Program inquiries or reporting Program problems;
 - 2.3.4.2** Access to Program technical tips;
 - 2.3.4.3** Access to Program problem and solution list(s);
 - 2.3.4.4** Access to available Patches;
 - 2.3.4.5** Review COUNTY call/issue & status; and
 - 2.3.4.6** Review COUNTY maintenance contract status.
- 2.4 Reporting Cases to the Support Services Center.** All Program inquiries or issue reports submitted to JUMP Technology Services must be made by a designated COUNTY contact. Help Desk Tickets (HDT) will generally fall into one (1) of three (3) categories:
- 2.4.1 Technical Assistance.** Questions about Program usage and installation that do not result in registration of a program defect or enhancement request.
 - 2.4.2 Program Defects.** A COUNTY encounters a problem that is determined to be an Error or defect in the Program.
 - 2.4.3 Feature Enhancements Requests.** Request for a tool or feature that is not included in the current set of JUMP Technology Services’ produced or licensed software or features. CONTRACTOR will review COUNTY’s requests for feature enhancement during normal CONTRACTOR systems update cycles. Enhancements not identified as requirements for state reporting may be purchased by COUNTY at an hourly rate for development services. COUNTY may request a quote for the additional services.

2.5 Documentation Discrepancies. All HDT submitted to the Support Services Center (“SSC”) shall be made in the form of an issue report and shall include the following:

2.5.1 Contact information for the designated COUNTY contact reporting the problem;

2.5.2 The name and version number of the system being used;

2.5.3 A general description of the environment in which issue was discovered, as applicable;

2.5.4 A description of relevant hardware components in the environment;

2.5.5 A description of relevant software components in the environment and their versions;

2.5.6 A description of the problem and expected results; and

2.5.7 System generated error messages or diagnostics where available.

2.6 Help Desk Tickets. CONTRACTOR will respond to Help Desk Tickets (“HDT”) within the following response time goals for all issue categories excluding enhancement requests:

Priority	Acknowledgment	Response
1 – High	2 business hours	4 business hours
2 – Medium	1 business day	3 business days
3 – Low	3 business days	5 business days

2.6.1 Acknowledgement Time. As used herein, the term “acknowledgement time” refers to the time between COUNTY reporting the HDT to CONTRACTOR and the time CONTRACTOR gives COUNTY notice that it acknowledges the situation. These response times apply to HDT reported via the customer portal during normal business hours, or via the SSC chat line. HDT reported outside of normal business hours will adhere to the above times from the start of the next business day.

2.6.2 Response Time. As used herein, the term “Response Time” refers to the time between COUNTY reporting the HDT and the time that the Project Management Office (“PMO”) or SSC Analyst is assigned and actively working on the HDT.

2.6.3 Enhancement Requests. Requests for enhancements or services beyond the scope of this Agreement shall be offered to COUNTY according to the rate schedule set forth in in Exhibit B – Schedule of Rates as Optional Programming Updates.

2.7 Call Priority. CONTRACTOR and COUNTY will work jointly to assign the appropriate priority to all HDT based on the following criteria:

Priority	Conditions
1 – High	Critical business impact. COUNTY has complete loss of service and work cannot reasonably continue; experiences real or perceived data loss or corruption; an essential part of the system is unusable for COUNTY, which results in the inability to use a mission critical application.

2 – Medium	Some business impact. The problem seriously affects the functionality of the Program but can be circumvented so that the Program can be used; or that the Program as a whole functions but that a certain function is somewhat disabled, gives incorrect results or does not conform to the specifications.
3 – Low	Minimal business impact. COUNTY can circumvent the problem and use the system with only slight inconvenience. The error can be considered insignificant and has no significant effect on the usability of the software, e.g., a small system error or error in the documentation. This priority is also used for questions, comments, and requests for enhancements to the software.

2.8 CONTRACTOR's Service Responsibilities. For each HDT reported by COUNTY, CONTRACTOR shall:

- 2.8.1** Maintain a web portal for COUNTY to report a problem and receive assistance;
- 2.8.2** Provide written confirmation of receipt of all reports containing an identifying ticket number assigned by CONTRACTOR, and time-frame in which a response can be expected, that will be used in all subsequent communications with COUNTY;
- 2.8.3** Analyze the report and verify the existence of the problem; and
- 2.8.4** Give COUNTY direction and assistance in resolving technical issues.

2.9 COUNTY's Service Responsibilities. Before submitting a HDT to CONTRACTOR, COUNTY shall:

- 2.9.1** Appoint designated Contacts from COUNTY's organization for all matters relating to the support issues for CONTRACTOR systems;
- 2.9.2** Obtain all necessary information as outlined above;
- 2.9.3** Include CONTRACTOR's identifying HDT number in all subsequent communications with CONTRACTOR regarding the HDT; and
- 2.9.4** Maintain an accurate record of all HDT actions, based on feedback from CONTRACTOR.

2.10 Closure of HDT. HDTs will be considered to be resolved and will be closed under the following conditions:

- 2.10.1** COUNTY receives an error correction, a workaround or information that resolves the issue;
- 2.10.2** Issue is identified as not a problem with the CONTRACTOR's product;
- 2.10.3** The HDT results in a correction or enhancement request being entered and COUNTY has been notified of the defect/enhancement ID for future reference; and

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- 2.10.4** COUNTY has not responded to CONTRACTOR within ten (10) business days after

information was provided via portal. The HDT can be reopened if the issue has not been resolved.

2.11 Software Releases. COUNTY's project manager will publish release information at release planning and implementation. COUNTY will also be provided with a link to iteration plans that include requested or planned future enhancements. All updates implemented will require COUNTY approval.

2.12 Failure Correction Goals. HDTs that result in the identification of a software system defect/failure will cause a Defect to be logged. COUNTY will be notified that the defect/failure was received and will be provided with an HDT number. CONTRACTOR will respond to defect reports as indicated in the table below. The response time goals do not apply in situations where it is verified that the source of the failure is a third party product.

2.13 Defect Correction Goals.

Priority	Interim Solution	Final Solution
1 – High	All commercially reasonable effort until the defect is repaired	Permanent correction within 30 business days of identification of the cause of the defect.
2 – Medium	N/A	Permanent correction within 45 business days of identification of the cause of the defect
3 – Low	N/A	Permanent correction with next schedule Major Release or Update Release

3.0 TRAINING SERVICES:

Instructor led new user and refresher training will be conducted via screen sharing with follow-up assessments. Each training will consist of a two-hour session, with a one-hour follow-up session, which will be used to review assignments and provide final instructions. If multiple, concurrent sessions are needed, COUNTY may request in-person training as an alternative to the screen sharing training.

4.0 SERVICE RESTRICTIONS:

CONTRACTOR will not drive an automobile as part of the services provided pursuant to the terms and conditions of this Agreement. If CONTRACTOR's responsibilities are changed in such a way that driving will be required during, or in connection with, the performance of the services required hereunder, proof of automobile liability insurance will be required prior to the commencement of any such driving.

EXHIBIT B
SCHEDULE OF RATES
Jump Technology Services, LLC
For Fiscal Year 2017-2018 through 2018-2019

Support Plan Level LEAPS EXTENDED 21-30 Users

Plan Costs Year One: 07/01/2017 to 06/30/2018

*Annual Hosting and Support 21 - 30 Users (includes 80 hours of system upgrade) = \$23,868
(4 advance quarterly payments of \$5,967)*

New User Training (as requested) 9 sessions at \$400 each = \$3,600

Optional Programming Updates (as requested) at \$90 per hour

Year One Total Budget: \$27,468

Plan Costs Year Two: 07/01/2018 to 06/30/2019

*Annual Hosting and Support 21 - 30 Users (includes 80 hours of system upgrade) = \$23,868
(4 advance quarterly payments of \$5,967)*

New User Training (as requested) 9 sessions at \$400 each = \$3,600

Optional Programming Updates (as requested) at \$90 per hour

Year Two Total Budget: \$27,468

TOTAL BUDGET: \$54,936

EXHIBIT C
COUNTY OF HUMBOLDT HIPAA BUSINESS ASSOCIATE AGREEMENT
Jump Technology Services, LLC
For Fiscal Years 2017-2018 through 2018-2019

- 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.l. 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 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 164.1408, 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.

EXHIBIT D
HOLIDAY SCHEDULE

Jump Technology Services, LLC
For Fiscal Years 2017-2018 through 2018-2019

The following holidays will be excluded from the support plan as identified and defined in Exhibit A – Scope of Services. Such holidays are subject to change from year to year, but the total number of holidays will not exceed ten (10) days per year.

Generally the following holidays will be observed:

- New Year's Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving
- Day after Thanksgiving
- Christmas Day
- Day after Christmas