

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE AGREEMENT

This Service Agreement (“Agreement”) is dated June 20, 2023 and is between Carelon Behavioral Health of California, Inc., formerly known as Beacon Health Options of California, Inc., a California For Profit Corporation, (“Contractor”) and the County of Fresno, a political subdivision of the State of California (“County”).

Recitals

A. County is authorized through its Intergovernmental Agreement with the California Department of Health Care Services, hereinafter referred to as State or DHCS, to arrange for the provision of mandated substance use disorder treatment services, also known as Drug Medi-Cal (DMC) in Fresno County.

B. County is authorized to contract with privately operated agencies for the provision of alcohol and other drug treatment services, pursuant to Title 9, Division 4 of the California Code of Regulations and Division 10.5 (commencing with Section 11750) of the California Health and Safety Code.

C. The Department of Behavioral Health would like to continue substance use disorder residential treatment authorization services and Contractor is licensed by the State of California Department of Managed Health Care to provide services required by the County.

D. County and Contractor entered into Agreement 22-256 effective July 1, 2022, to allow Contractor to provide substance use disorder residential treatment authorization services.

E. Contractor was formerly known as Beacon Health Options of California, Inc. and changed its name to Carelon Behavioral Health of California, Inc. on March 8, 2023; and

F. The purpose of this superseding Agreement is to reflect the name change of the Contractor and to revise the compensation for residential treatment authorization services due to an increase in substance use disorder residential treatment capacity.

G. This Agreement shall replace, restate, and supersede Agreement No. 22-256 in its entirety.

The parties, therefore, agree as follows:

1 **Article 1**

2 **Contractor's Services**

3 **1.1 Scope of Services.** The Contractor shall perform the services provided in Exhibit A
4 to this Agreement, titled "Substance Use Disorder Residential Service Authorizations Scope of
5 Work."

6 **1.2 Representation.** The Contractor represents that it is qualified, ready, willing, and
7 able to perform all of the services provided in this Agreement.

8 **1.3 Compliance with Laws.** The Contractor shall, at its own cost, comply with all
9 applicable federal, state, and local laws and regulations in the performance of its obligations
10 under this Agreement, including but not limited to workers compensation, labor, and
11 confidentiality laws and regulations.

12 **1.4 Guiding Principles of Care Delivery.** Contractor shall align program, services, and
13 practices with the vision and mission within Exhibit B to this Agreement, "DBH Guiding
14 Principles of Care Delivery." Contractor may be required to utilize and integrate any such
15 clinical tools determined by DBH to be beneficial to persons served at DBH's discretion.

16 **1.5 Behavioral Health Compliance Program.** Contractor shall comply with all
17 requirements of the Fresno County Behavioral Health Compliance Program Code of Conduct
18 and Ethics, as set forth in Exhibit C. Within thirty (30) days of entering into this Agreement with
19 the County, new Contractors shall have all employees, agents and subcontractors providing
20 services under this Agreement complete General Compliance training and certify in writing, that
21 they have received, read, understood, and shall abide by the requirements set forth in Exhibit
22 C. Contractor shall ensure that within thirty (30) days of hire, all new employees, agents and
23 subcontractors providing services under this Agreement complete General compliance training
24 and certify in writing that they have received, read, understood, and shall abide by the
25 requirements set forth in Exhibit C.

26 (A) Contractor will require all employees, agents and subcontractors providing
27 services under this Agreement to complete General Compliance training annually
28 thereafter and appropriate employees, agents and subcontractors shall complete

1 Substance Use Disorder Documentation Billing or billing/reimbursement training.
2 Contractor understands that the promotion of and adherence to such requirements is an
3 element in evaluating the performance of Contractor and its employees, agents, and
4 subcontractors.

5 (B) Contractor's employees, agents and subcontractors will submit written
6 certifications upon completion of General Compliance training to the County's
7 Compliance Officer.

8 (C) Contractor and its employees, agents and subcontractors will promptly report any
9 suspected violation(s) of the Code of Conduct and Ethics or report any activity that they
10 believe may violate the standards of the Compliance Program through the DBH
11 Compliance Hotline: (888) 262-4174.

12 (D) Contractor agrees to reimburse County for the entire cost of any penalty imposed
13 upon County by the Federal Government as a result of Contractor's violation of the
14 terms of this Agreement.

15 **1.6 Employee Assistance.** Employees involved in a crisis incident should be offered
16 appropriate Employee Assistance Program (EAP) or similar related wellness and recovery
17 assistance. In conjunction with the County DBH's Guiding Principles of Care Delivery and
18 wellness of the workforce, Contractor shall align their practices around this vision and ensure
19 needed debriefing services are offered to all employees involved in a crisis incident.
20 Employees shall be afforded all services to strengthen their recovery and wellness related to
21 the crisis incident. Appropriate follow-up with the employee shall be carried out and a plan for
22 workforce wellness shall be submitted to the County's DBH.

23 **1.7 Provider Manual.** Contractor shall comply with the Fresno County Substance Use
24 Disorder (FCSUD) Provider Manual, herein after referred to as the "Provider Manual" and by
25 this reference incorporated herein, available at by DBH at the following web address:
26 [https://www.co.fresno.ca.us/departments/behavioral-health/home/for-providers/contract-](https://www.co.fresno.ca.us/departments/behavioral-health/home/for-providers/contract-providers/substance-use-disorder-providers)
27 [providers/substance-use-disorder-providers](https://www.co.fresno.ca.us/departments/behavioral-health/home/for-providers/contract-providers/substance-use-disorder-providers). No formal amendment of this agreement is
28 required for changes to the Provider Manual to apply.

1 **1.8 Evaluation – Monitoring.** It is acknowledged by all parties hereto that County's

2 DBH Contracted Services Division shall monitor the services operated by Contractor.

3 Contractor shall participate in a review of the program at least yearly or more frequently, or as
4 needed, at the discretion of County. The Contractor agrees to supply all information requested
5 by the County, DHCS, and/or the subcontractor of County or DHCS during the program
6 evaluation, monitoring and/or review.

7 County's DBH Director, or his or her designee, and DHCS or their designees shall
8 monitor and evaluate the performance of Contractor under this Agreement to determine to the
9 best possible degree the success or failure of the services provided under this Agreement. At
10 the discretion of the County, a subcontractor may be obtained by the County to independently
11 evaluate and monitor the performance of the Contractor. Contractor shall participate in the
12 evaluation of the program as needed at the discretion of the County.

13 County shall recapture from Contractor the value of any services or other expenditures
14 determined to be ineligible based on the County or State monitoring results. At the discretion of
15 the County, recoupment can be made through a future invoice reduction or reimbursement by
16 the Contractor.

17 The County reserves the right to enter into a repayment agreement with Contractor,
18 with total monthly payments not to exceed twelve (12) months from the date of the repayment
19 agreement, to recover the amount of funds to be recouped. The County has the discretion to
20 extend the repayment plan up to a total of twenty-four (24) months from the date of the
21 repayment agreement. The repayment agreement may be made with the signed written
22 approval of County's DBH Director, or designee, and respective Contractor through a
23 repayment agreement. The monthly repayment amounts may be netted against the Contractor's
24 monthly billing for services rendered during the month, or the County may, in its sole discretion,
25 forego a repayment agreement and recoup all funds immediately. This remedy is not exclusive,
26 and County may seek requital from any other means, including, but not limited to, a separate
27 contract or agreement with Contractor.

1 **1.9 Subcontracts.** Contractor shall be required to assume full responsibility for all
2 services and activity covered by this Agreement, whether or not Contractor is providing
3 services directly. Further, Contractor shall be the sole point of contact with regard to
4 contractual matters, including payment of any and all charges resulting from this Agreement.

5 (A) If Contractor should propose to subcontract with one or more third parties to
6 carry out a portion of services covered by this Agreement, any such subcontract shall be
7 in writing and approved as to form and content by County's DBH Director, or his or her
8 designee, prior to execution and implementation. County's DBH Director, or his or her
9 designee, shall have the right to reject any such proposed subcontract.

10 (B) Any such subcontract together with all activities by or caused by Contractor shall
11 not require compensation greater than the total budget contained herein.

12 (C) An executed copy of any such subcontract shall be received by County before
13 any implementation and shall be retained by County. Contractor shall be responsible to
14 County for the proper performance of any subcontractor. Any subcontractor shall be
15 subject to the same terms and conditions that Contractor is subject to under this
16 Agreement, including, without limitation, the licensing, certification, privacy, data security
17 and confidentiality requirements set forth herein, and include the applicable provisions of
18 42 C.F.R. § 438.230.

19 **1.10 Quality Improvement.** Contractors shall participate in ongoing quality assessment
20 and performance improvement programs (PIPs) consistent with requirements contained within
21 the DMC Intergovernmental Agreement that focus on both clinical and nonclinical areas. Each
22 performance improvement project shall be designed to achieve significant improvement,
23 sustained over time, in health outcomes and satisfaction of persons served. All performance
24 improvement projects shall contain the following elements:

- 25 (A) Measurement of performance using objective quality indicators;
- 26 (B) Implementation of interventions to achieve improvement in the access to and
27 quality of care;

1 (C) Evaluation of the effectiveness of the interventions based on the performance
2 measures; and

3 (D) Planning and initiation of activities for increasing or sustaining improvement.

4 Contractor shall report the status and result of each PIP to County as requested,
5 within the timeframe specified by County.

6 County shall establish a Quality Improvement (QI) Committee to review the quality of
7 SUD treatment services provided to persons served. The QI Committee shall recommend policy
8 decisions; review and evaluate the results of QI activities, including performance improvement
9 projects; institute needed QI actions; ensure follow-up of QI processes; and document QI
10 Committee meeting minutes regarding decisions and actions taken. Contractor shall actively
11 participate in quality improvement trainings, meetings, and committees on an as needed basis.

12 **1.11 Prohibition on Publicity.** None of the funds, materials, property or services
13 provided directly or indirectly under this Agreement shall be used for Contractor's advertising,
14 fundraising, or publicity (i.e, purchasing of tickets/tables silent auction donations, etc.) for the
15 purpose of self-promotion. Notwithstanding the above, publicity of the services described in the
16 Exhibit A, Substance Use Disorder Residential Service Authorizations Scope of Work, of this
17 Agreement shall be allowed as necessary to raise public awareness about the availability of
18 such specific services when approved in advance by the DBH Director, or his or her designee,
19 and at a cost to be provided for such items as written/printed materials, the use of media (i.e.,
20 radio, television, newspapers) and any other related expenses.

21 **1.12 Community Events.** Contractor shall notify County at least thirty (30) days in
22 advance of any community event of which Contractor is the primary organizer. Contractor shall
23 disclose and supply County with all written/printed materials and media used in the marketing
24 and operation of the event. Contractor shall provide all materials to County at least two weeks
25 prior to the date of the event. County reserves the right to review and approve all Contractor
26 submitted materials.

27 **1.13 Public Information.** Contractor shall disclose its funding source in all public
28 information. Communication products must follow DBH graphic standards, including typefaces

1 and colors, to communicate DBH's authority and project a unified brand. This includes all
2 media types and channels and all materials on and offline that are created as part of DBH's
3 efforts to provide information to the public. Communication products must include a funding
4 acknowledgement determined by the level of funding provided by DBH as follows:

5 (A) A program of Fresno County Department of Behavioral Health (100% funded);

6 (B) Funding provided by Fresno County Department of Behavioral Health (50% or
7 more funded);

8 (C) Funded, in part, by Fresno County Department of Behavioral Health (less than
9 50% funded; and

10 (D) A partnership, with funding by Fresno County Department of Behavioral Health
11 (any funding amount).

12 **1.14 Meetings.** Contractor shall participate in monthly, or as needed, workgroup
13 meetings consisting of staff from County's DBH to discuss program requirements, data
14 reporting, training, policies, procedures, overall program operations and any problems or
15 foreseeable problems that may arise.

16 **1.15 Change to Program or Leadership/Management.** Contractor shall notify County
17 in writing of any change in organizational name, Head of Service or principal business at least
18 15 business days in advance of the change.

19 Contractor must immediately notify County of a change in operational status,
20 including ownership, licensure, registration, certification, ability to provide the quantity or quality
21 of contracted services timely, or if the approval to operate a SUD program or provide a covered
22 service is revoked, suspended, modified, or not renewed by entities other than DHCS.

23 Such notification shall include any new leader or manager's name, address and
24 qualifications. "Leadership or management" shall include any employee, member, or owner of
25 Contractor who either a) directs individuals providing services pursuant to this Agreement; b)
26 exercises control over the manner in which services are provided; or c) has authority over
27 Contractor's finances.

1 **1.16 Reports.** Contractors shall submit all information and data required by County and
2 State including but not limited to the following:

3 (A) Logic Manager Incident Reporting – as needed, when incidents occur and
4 instructed in Exhibit D, “Protocol for Completion of Incident Report.”

5 (B) Cultural Competency Survey – completed annually in a format to be determined
6 by DBH;

7 (C) Americans with Disabilities (ADA) – Annually, upon request by County DBH,
8 Contractor(S) shall complete a system-wide accessibility survey in a format determined
9 by DBH for each service location and shall submit an ADA Accessibility Certification and
10 Self-Assessment, including an Implementation Plan, for each service location;

11 (D) Culturally and Linguistically Appropriate Services (CLAS) – Annually, upon
12 request by DBH, Contractor(S) shall complete and agency CLAS survey in a format
13 determined by County DBH and shall submit a CLAS Self-Assessment, including an
14 Implementation Plan; and

15 (E) Cost Reports – On an annual basis for each fiscal year ending June 30th
16 Contractor(S) shall submit a complete and accurate year-end cost report for each fiscal
17 year affected by this Agreement. Contractor shall also furnish to County such
18 statements, records, reports, data, and information as County may request pertaining to
19 matters covered by this Agreement.

20 (F) Outcome Reports – Contractor and County shall agree to standard reports within
21 30 days of the execution of this agreement. Contractor shall deliver the reports set forth in
22 the “Standard Reporting Package” according to the timeframes agreed to by Contractor
23 and County. Non-standard reports shall be delivered according to a mutually agreed-to
24 timeline after full specifications are received and confirmed by Contractor and approved
25 by County. In addition to the Standard Reporting Package, Contractor will provide a
26 maximum of eight (8) hours of time per month to include design, development and
27 production work for modifications to any report in the Standard Reporting Package or
28 any non-standard additional reports requested by County that are not included in the

1 Standard Reporting Package (the “Reporting Customization Work”); provided, however,
2 that any unused hours in any month shall not be carried into the next month. The
3 Standard Reporting Package shall be reviewed by both Parties at least annually for
4 revision to the reports included in the package and content and format of included
5 reports. Mutually agreed to changes to the Standard Reporting Package will be made at
6 no additional charge to County provided the number of reports and production time for
7 reports does not increase materially. In addition to the reports defined within the
8 Standard Reporting Package, County can request/receive four (4) ad-hoc reports, per
9 contract year, under the existing contract pricing. Additional ad-hoc report requests will
10 be charged back to the County at a mutually agreed upon baseline charge depending on
11 report complexity and level of effort in development. Non-standard reports shall be
12 delivered according to a mutually agreed upon timeline after full specifications are
13 received and confirmed by the Contractor. Prior written approval by County is required
14 before the requested ad-hoc report is developed. For any changes to the Standard
15 Reporting Package or any agreed-upon modifications to the same that materially
16 increase the number of reports or production time for reports, such mutually agreed
17 upon changes shall be added to this Agreement by an amendment signed by both
18 parties.

19 (G) SUSPENSION OF COMPENSATION – In the event that Contractor fails to
20 provide reports specified in this Agreement, it shall be deemed sufficient cause for
21 County to withhold payments until there is compliance.

22 **1.17 Records Establishment and Maintenance.** Contractor shall establish and
23 maintain records in accordance with State and Federal rules and regulations in addition to
24 those requirements prescribed by County with respect to all matters covered by this Agreement.
25 Except as otherwise authorized by County, Contractor shall retain all other records for a period of
26 ten (10) years or from the date of completion of any audit, whichever is later.

27 **1.18 Documentation.** Contractor shall maintain adequate records in sufficient detail to
28 make possible an evaluation of services and contain all the data necessary in reporting to the

1 State of California and/or Federal agency. All persons served records shall be maintained
2 pursuant to applicable State of California and Federal requirements concerning confidentiality.
3 In the event of contract termination or expiration, all original copies of clinical records and
4 clinical charts, for a period of ten (10) years shall be delivered to County.

5 **1.19 Person Served Confidentiality.** Contractor shall conform to and County shall
6 monitor compliance with all State and Federal statutes and regulations regarding
7 confidentiality, including but not limited to confidentiality of information requirements of 42 CFR
8 § 2.1 et seq., Welfare and Institutions Code §§ 5328, 10850 and 14100.2, Health and Safety
9 Code §§ 11977 and 11812, Civil Code, Division 1, Part 2.6, and CCR Title 22 § 51009.

11 **Article 2**

12 **Compensation, Invoices, and Payments**

13 **2.1** The County agrees to pay, and the Contractor agrees to receive, compensation for
14 the performance of its services under this Agreement as described in Exhibit E to this
15 Agreement, titled "Budget."

16 **2.2 Maximum Compensation.** The maximum compensation payable to the Contractor
17 under this Agreement for the period of March 1, 2023 through June 30, 2023 is Three Hundred
18 Sixty Eight Thousand One Hundred Fifty Two and No/100 Dollars (\$368,152.00). The maximum
19 compensation payable to the Contractor under this Agreement for the period of July 1, 2023
20 through June 30, 2024 is One Million One Hundred Thirty Nine Thousand Ninety Two and
21 No/100 Dollars (\$1,139,092.00). The maximum compensation payable to the Contractor under
22 this Agreement for the period of July 1, 2024 through June 30, 2025 is One Million One Hundred
23 Seventy Eight Thousand Five Hundred Sixty and No/100 Dollars (\$1,178,560.00). The
24 maximum compensation payable to the Contractor under this Agreement for the period of July
25 1, 2025 through June 30, 2026 is One Million Two Hundred Nineteen Thousand Four Hundred
26 Eight and No/100 Dollars (\$1,219,408.00). The maximum compensation payable to the
27 Contractor under this Agreement for the period of July 1, 2026 through June 30, 2027 is One
28

1 Million Two Hundred Sixty One Thousand Six Hundred Eighty Four and No/100 Dollars
2 (\$1,261,684.00).

3 **2.3 Total Maximum Compensation.** In no event shall the maximum contract amount
4 for all the services provided by the Contractor to County under the terms and conditions of this
5 Agreement be in excess of Five Million One Hundred Sixty Six Thousand Eight Hundred Ninety
6 Six and No/100 Dollars (\$5,166,896.00) during the entire term of this Agreement.

7 The Contractor acknowledges that the County is a local government entity and does
8 so with notice that the County's powers are limited by the California Constitution and by State
9 law, and with notice that the Contractor may receive compensation under this Agreement only
10 for services performed according to the terms of this Agreement and while this Agreement is in
11 effect, and subject to the maximum amount payable under this section. The Contractor further
12 acknowledges that County employees have no authority to pay the Contractor except as
13 expressly provided in this Agreement.

14 The Contractor will be compensated for performance of its services under this
15 Agreement as provided in this Article. The Contractor is not entitled to any compensation except
16 as expressly provided in this Agreement.

17 **2.4 Invoices.** The Contractor shall submit monthly invoices to 1)
18 dbhinvoicereview@fresnocountyca.gov; 2) DBH-Invoices@fresnocountyca.gov; and 3)
19 sas@fresnocountyca.gov. The Contractor shall invoice County for service month, in arrears, in
20 the format directed by County. Invoices shall be submitted to County within fifteen (15) days
21 after the close of the month in which services were rendered. At the discretion of County's DBH
22 Director or designee, if an invoice is incorrect or is otherwise not in proper form or substance,
23 County's DBH Director, or designee, shall have the right to withhold payment as to only the
24 portion of the invoice that is incorrect or improper after five (5) days prior notice to Contractor.
25 Contractor agrees to continue to provide services for a period of ninety (90) days after
26 notification of an incorrect or improper invoice. If after the ninety (90) day period, the invoice is
27 still not corrected to County satisfaction, County's DBH Director, or designee, may elect to
28

1 terminate this Agreement, pursuant to the termination provisions stated in Article 5 of this
2 Agreement.

3 **2.5 Payment.** Payments shall be made by County to Contractor in arrears, for services
4 provided during the preceding month, within forty-five (45) days after the date of receipt,
5 verification, and approval by County. All final invoices and/or any final budget modification
6 requests shall be submitted by Contractor within sixty (60) days following the final month of
7 service for which payment is claimed.

8 County shall not be obligated to make any payments under this Agreement if the
9 request for payment is received by County more than sixty (60) days after this Agreement has
10 terminated or expired. Any compensation which is expended by Contractor pursuant to the
11 terms and conditions of this Agreement shall automatically revert to County.

12 **2.6 Incidental Expenses.** The Contractor is solely responsible for all of its costs and
13 expenses that are not specified as payable by the County under this Agreement. If Contractor
14 fails to comply with any provision of this Agreement, County shall be relieved of its obligation for
15 further compensation.

16 **2.7 Compliance.** If Contractor should fail to comply with any provision of this
17 Agreement, County shall be relieved of its obligation for further compensation. Contractor's and
18 County's obligations under this section shall survive the termination of this Agreement with
19 respect to services provided during the term of this Agreement without regard to the cause of
20 termination of this Agreement.

21 **2.8 Restrictions and Limitations.** This Agreement shall be subject to any restrictions,
22 limitations, and/or conditions imposed by County or state or federal funding sources that may in
23 any way affect the fiscal provisions of, or funding for this Agreement. This Agreement is also
24 contingent upon sufficient funds being made available by County, state, or federal funding
25 sources for the term of the Agreement. If the federal or state governments reduce financial
26 participation in the Medi-Cal program, County agrees to meet with Contractor to discuss
27 renegotiating the services required by this Agreement. Funding is provided by fiscal year. Any
28 unspent fiscal year appropriation does not roll over and is not available for services provided in

1 subsequent years. In the event that funding for these services is delayed by the State
2 Controller, County may defer payments to Contractor. The amount of the deferred payment
3 shall not exceed the amount of funding delayed by the State Controller to the County. The
4 period of time of the deferral by County shall not exceed the period of time of the State
5 Controller's delay of payment to County plus forty-five (45) days.

6 **2.9 Quality Assurance.** For services rendered herein, Contractor shall assure that an
7 on-going quality assurance component is in place and is occurring. Contractor shall assure that
8 clinical records for each participant are of such detail and length that a review of said records
9 will verify that appropriate services were provided. If the record is unclear, incomplete, and/or
10 indicates that appropriate services were not provided, County reserves the right to withhold
11 payment for applicable unit(s) of service.

12 **2.10 Lobbying Activities.** Contractor shall not directly or indirectly use any of the funds
13 provided under this Agreement for publicity, lobbying or propaganda purposes designed to
14 support or defeat legislation pending before Congress of the United States or the Legislature of
15 the State of California.

16 **2.11 Political Activity.** Contractor shall not directly or indirectly use any of the funds
17 under this Agreement for any political activity or to further the election or defeat of any candidate
18 for public office.

19 **2.12 Additional Financial Requirements.** County has the right to monitor the
20 performance of this Agreement to ensure the accuracy of claims for reimbursement and
21 compliance with all applicable laws and regulations. Contractor must comply with the False
22 Claims Act employee training and policy requirements set forth in 42 U.S.C. 1396a(a)(68) and
23 as the Secretary of the United States Department of Health and Human Services may specify.
24 Contractor agrees that no part of any federal funds provided under this Agreement shall be used
25 to pay the salary of an individual per fiscal year at a rate in excess of Level 1 of the Executive
26 Schedule at <https://www.opm.gov/> (U.S. Office of Personnel Management), as from time to time
27 amended. Federal Financial Participation is not available for any amount furnished to an
28 Excluded individual or entity, or at the direction of a physician during the period of exclusion

1 when the person providing the service knew or had reason to know of the exclusion, or to an
2 individual or entity when the County failed to suspend payments during an investigation of a
3 credible allegation of fraud [42 U.S.C. section 1396b(i)(2)]. Contractor must maintain financial
4 records for a minimum period of ten (10) years or until any dispute, audit or inspection is
5 resolved, whichever is later. Contractor will be responsible for any disallowances related to
6 inadequate documentation.

7 **2.13 Contractor Prohibited from Redirection of Contracted Funds.** Contractor may
8 not redirect or transfer funds from one funded program to another funded program under which
9 Contractor provides services pursuant to this Agreement except through a duly executed
10 amendment to this Agreement. Contractor may not charge services delivered to an eligible
11 person served under one funded program to another funded program unless the person served
12 is also eligible for services under the second funded program.

13 **2.14 Financial Audit Report Requirements for Pass-Through Entities.** If County
14 determines that Contractor is a “subrecipient” (also known as a “pass-through entity”) as defined
15 in 2 C.F.R. § 200 et seq., Contractor represents that it will comply with the applicable cost
16 principles and administrative requirements including claims for payment or reimbursement by
17 County as set forth in 2 C.F.R. § 200 et seq., as may be amended from time to time. Contractor
18 shall observe and comply with all applicable financial audit report requirements and standards.
19 Financial audit reports must contain a separate schedule that identifies all funds included in the
20 audit that are received from or passed through the County. County programs must be identified
21 by Agreement number, Agreement amount, Agreement period, and the amount expended
22 during the fiscal year by funding source. Contractor will provide a financial audit report including
23 all attachments to the report and the management letter and corresponding response within six
24 months of the end of the audit year to the County’s DBH Director or designee. The County’s
25 Director or designee is responsible for providing the audit report to the County Auditor.
26 Contractor must submit any required corrective action plan to the County simultaneously with
27 the audit report or as soon thereafter as it is available. The County shall monitor implementation
28 of the corrective action plan as it pertains to services provided pursuant to this Agreement.

1 **Article 3**

2 **Term of Agreement**

3 **3.1 Term.** This Agreement is effective on March 1, 2023 and terminates on June 30,
4 2025, except as provided in section 3.2, "Extension," or Article 5, "Termination and
5 Suspension," below.

6 **3.2 Extension.** The term of this Agreement may be extended for no more than two,
7 one-year periods only upon written approval of both parties at least 30 days before the first day
8 of the next one-year extension period. The DBH Director or his or her designee is authorized to
9 sign the written approval on behalf of the County based on the Contractor's satisfactory
10 performance. The extension of this Agreement by the County is not a waiver or compromise of
11 any default or breach of this Agreement by the Contractor existing at the time of the extension
12 whether or not known to the County.

13 **Article 4**

14 **Notices**

15 **4.1 Contact Information.** The persons and their addresses having authority to give and
16 receive notices provided for or permitted under this Agreement include the following:

17 **For the County:**

18 Director, Department of Behavioral Health
19 County of Fresno
20 1925 E. Dakota Ave
21 Fresno, CA 93726
22 sas@fresnocountyca.gov
23 Fax: (559) 600-7674

24 **For the Contractor:**

25 Neil Collins, Account Management Executive,
26 Carelon Behavioral Health of California, Inc.
27 12900 Park Plaza Drive, Cerritos CA 90703
28 neil.collins@carelon.com

4.2 Change of Contact Information. Either party may change the information in
section 4.1 by giving notice as provided in section 4.3.

4.3 Method of Delivery. Each notice between the County and the Contractor provided
for or permitted under this Agreement must be in writing, state that it is a notice provided under
this Agreement, and be delivered either by personal service, by first-class United States mail,

1 by an overnight commercial courier service, by telephonic facsimile transmission, or by
2 Portable Document Format (PDF) document attached to an email.

3 (A) A notice delivered by personal service is effective upon service to the recipient.

4 (B) A notice delivered by first-class United States mail is effective three County
5 business days after deposit in the United States mail, postage prepaid, addressed to the
6 recipient.

7 (C) A notice delivered by an overnight commercial courier service is effective one
8 County business day after deposit with the overnight commercial courier service,
9 delivery fees prepaid, with delivery instructions given for next day delivery, addressed to
10 the recipient.

11 (D) A notice delivered by telephonic facsimile transmission or by PDF document
12 attached to an email is effective when transmission to the recipient is completed (but, if
13 such transmission is completed outside of County business hours, then such delivery is
14 deemed to be effective at the next beginning of a County business day), provided that
15 the sender maintains a machine record of the completed transmission.

16 **4.4 Claims Presentation.** For all claims arising from or related to this Agreement,
17 nothing in this Agreement establishes, waives, or modifies any claims presentation
18 requirements or procedures provided by law, including the Government Claims Act (Division
19 3.6 of Title 1 of the Government Code, beginning with section 810).

20 **4.5 Notification of Changes.** Contractor shall notify County in writing of any change in
21 organizational name, Head of Service or principal business at least fifteen (15) business days
22 in advance of the change. Contractor shall notify County of a change of service location at least
23 six (6) months in advance to allow County sufficient time to comply with site certification
24 requirements. Said notice shall become part of this Agreement upon acknowledgment in writing
25 by the County, and no further amendment of the Agreement shall be necessary provided that
26 such change of address does not conflict with any other provisions of this Agreement.
27 Contractor must immediately notify County of a change in ownership, organizational status,
28

1 licensure, or ability of Contractor to provide the quantity or quality of the contracted services in
2 a and in no event more than 15 days of the change.

3 **Article 5**

4 **Termination and Suspension**

5 **5.1 Termination for Non-Allocation of Funds.** The terms of this Agreement are
6 contingent on the approval of funds by the appropriating government agency. If sufficient funds
7 are not allocated, then the County, upon at least 30 days' advance written notice to the
8 Contractor, may:

9 (A) Modify the services provided by the Contractor under this Agreement; or

10 (B) Terminate this Agreement.

11 **5.2 Termination for Breach.**

12 (A) Upon determining that a breach (as defined in paragraph (C) below) has
13 occurred, the County may give written notice of the breach to the Contractor. The written
14 notice may suspend performance under this Agreement and must provide at least 30
15 days for the Contractor to cure the breach.

16 (B) If the Contractor fails to cure the breach to the County's satisfaction within the
17 time stated in the written notice, the County may terminate this Agreement immediately.

18 (C) For purposes of this section, a breach occurs when, in the determination of the
19 County, the Contractor has:

20 (1) Obtained or used funds illegally or improperly;

21 (2) Failed to comply with any part of this Agreement;

22 (3) Submitted a substantially incorrect or incomplete report to the County; or

23 (4) Improperly performed any of its obligations under this Agreement.

24 **5.3 Termination without Cause.** In circumstances other than those set forth above,
25 the County may terminate this Agreement by giving at least 30 days advance written notice to
26 the Contractor.

27 **5.4 No Penalty or Further Obligation.** Any termination of this Agreement by the
28 County under this Article 5 is without penalty to or further obligation of the County.

1 **Article 8**

2 **Insurance and Assurances**

3 **8.1** The Contractor shall comply with all the insurance requirements in Exhibit F to this
4 Agreement.

5 **8.2 Assurances.** In entering into this Agreement, Contractor certifies that it is not
6 currently excluded, suspended, debarred, or otherwise ineligible to participate in the Federal
7 Health Care Programs under either section 1128 or 1128A of the Social Security Act; that it has
8 not been convicted of a criminal offense related to the provision of health care items or
9 services; nor has it been reinstated to participation in the Federal Health Care Programs after a
10 period of exclusion, suspension, debarment, or ineligibility. If County learns, subsequent to
11 entering into a contract, that Contractor is ineligible on these grounds, County will remove
12 Contractor from responsibility for, or involvement with, County's business operations related to
13 the Federal Health Care Programs and shall remove such Contractor from any position in
14 which Contractor's compensation, or the items or services rendered, ordered or prescribed by
15 Contractor may be paid in whole or part, directly or indirectly, by Federal Health Care Programs
16 or otherwise with Federal Funds at least until such time as Contractor is reinstated into
17 participation in the Federal Health Care Programs. Further, the Contractor agrees to the
18 Disclosure of Criminal History and Civil Actions and Certification regarding debarment,
19 suspension and other responsibility matters primary covered transactions; Contractor must sign
20 an appropriate Certification regarding debarment, suspension, and other responsibility matters,
21 attached to this Agreement as Exhibit G. Failure to certify will render all provisions of this
22 Agreement null and void and may result in immediate termination of the Agreement.

23 (A) If County has notice that Contractor has been charged with a criminal offense
24 related to any Federal Health Care Program or is proposed for exclusion during the term
25 of any agreement, Contractor and County shall take all appropriate actions to ensure the
26 accuracy of any claims submitted to any Federal Health Care Program. At its discretion
27 given such circumstances, County may request that Contractor cease providing services
28 until resolution of the charges or the proposed exclusion.

1 (B) Contractor agrees that all potential new employees of Contractor or
2 subcontractors of Contractor who, in each case, are expected to perform professional
3 services under this Agreement, will be queried as to whether (1) they are now or ever
4 have been excluded, suspended, debarred, or otherwise ineligible to participate in the
5 Federal Health Care Programs; (2) they have been convicted of a criminal offense
6 related to the provision of health care items or services; and or (3) they have been
7 reinstated to participation in the Federal Health Care Programs after a period of
8 exclusion, suspension, debarment, or ineligibility.

9 (1) In the event the potential employee or subcontractor informs Contractor that
10 he or she is excluded, suspended, debarred or otherwise ineligible, or has been
11 convicted of a criminal offense relating to the provision of health care services, and
12 Contractor hires or engages such potential employee or subcontractor, Contractor
13 will ensure that said employee or subcontractor does not work, either directly or
14 indirectly relating to services provided to County.

15 (2) Notwithstanding the above, County at its discretion may terminate this
16 Agreement in accordance with Article 5, Termination And Suspension, of this
17 Agreement, or require adequate assurance (as defined by County) that no excluded,
18 suspended, or otherwise ineligible employee or subcontractor of Contractor will
19 perform work, either directly or indirectly, relating to services provided to County.
20 Such demand for adequate assurance shall be effective upon a time frame to be
21 determined by County to protect the interests of County persons served.

22 (C) Contractor shall verify (by asking the applicable employees and subcontractors)
23 that all current employees and existing subcontractors who, in each case, are expected
24 to perform professional services under this Agreement (1) are not currently excluded,
25 suspended, debarred, or otherwise ineligible to participate in the Federal Health Care
26 Programs; (2) have not been convicted of a criminal offense related to the provision of
27 health care items or services; and (3) have not been reinstated to participation in the
28 Federal Health Care Program after a period of exclusion, suspension, debarment, or

1 ineligibility. In the event any existing employee or subcontractor informs Contractor that
2 he or she is excluded, suspended, debarred or otherwise ineligible to participate in the
3 Federal Health Care Programs, or has been convicted of a criminal offense relating to
4 the provision of health care services, Contractor will ensure that said employee or
5 subcontractor does not work, either directly or indirectly, relating to services provided to
6 County.

7 (1) Contractor agrees to notify County immediately during the term of this
8 Agreement whenever Contractor learns that an employee or subcontractor, who, in
9 each case, is providing professional services under this Agreement is excluded,
10 debarred or otherwise ineligible to participate in the Federal Health Care Programs,
11 or is convicted of a criminal offense relating to the provision of health care services.

12 (2) Notwithstanding the above, County at its discretion may terminate this
13 Agreement in accordance with the Article 5, Termination And Suspension, of this
14 Agreement, or require adequate assurance (as defined by County) that no excluded,
15 suspended or otherwise ineligible employee or subcontractor of Contractor will
16 perform work, either directly or indirectly, relating to services provided to County.
17 Such demand for adequate assurance shall be effective upon a time frame to be
18 determined by County to protect the interests of County persons served.

19 (D) Contractor agrees to cooperate fully with any reasonable request for information
20 from County which may be necessary to complete any internal or external audits relating
21 to this Agreement.

22 (E) Contractor agrees to reimburse County for the entire cost of any penalty imposed
23 upon County by the Federal Government as a result of Contractor's violation of the
24 terms of this Agreement.

25 (F) Contractor shall certify, prior to the execution of the Agreement, that the
26 Contractor does not employ or subcontract with providers or have other relationships
27 with providers Excluded from participation in Federal Health Care Programs, including
28 Medi-Cal/Medicaid or procurement activities, as set forth in 42 C.F.R. § 438.610.

1 Contractor shall conduct initial and monthly Exclusion and Suspension searches of the
2 following databases and provide evidence of these completed services when request by
3 County, DHCS or the US DHHS:

4 (1) www.oig.hhs.gov/exclusions - LEIE Federal Exclusions

5 (2) www.sam.gov/portal/SAM - GSA Exclusions Extract

6 (3) www.Medi-Cal.ca.gov – Suspended & Ineligible Provider List

7 (4) <https://nppes.cms.hhs.gov/#/> - national Plan and Provider enumeration

8 System (NPPES)

9 (5) Any other database required by DHCS or DHHS.

10 (G) Contractor shall certify, prior to the execution of the Agreement, that Contractor
11 does not employ staff or individual contractors/vendors that are on the Social Security
12 Administration’s Death Master File.

13 (H) Contractor shall check the following database prior to employing staff or
14 individual contractors/vendors and provide evidence of these completed services when
15 required by County, DHCS or the US DHHS.

16 (1) <https://www.ssdmf.com/> - Social Security Death Master File

17 (I) Contractor is required to notify County immediately if Contractor becomes aware
18 of any information that may indicate their (including employees/staff and individual
19 contractors/vendors) potential placement on an exclusions list.

20 (J) Contractor shall screen and periodically revalidate all network providers in
21 accordance with the requirements of 42 C.F.R., Part 455, Subparts B and E.

22 (K) Contractor must confirm the identity and determine the exclusion status of all its
23 providers, as well as any person with an ownership or control interest, or who is an
24 agent or managing employee of the contracted agency through routine checks of federal
25 and state databases. This includes the Social Security Administration’s Death Master
26 File, NPPES, the Office of Inspector General’s List of Excluded Individuals/Entities
27 (LEIE), the Medi-Cal Suspended and Ineligible Provider List (S&I List) as consistent with
28 the requirements of 42 C.F.R. § 455.436.

1 (L) If a Contractor finds a provider that is Excluded, it must promptly notify the
2 County as per 42 C.F.R. § 438.608(a)(2)(4). Contractor shall not certify or pay an
3 Excluded provider with Medi-Cal funds, must treat payments made to an Excluded
4 provider as an overpayment, and any such inappropriate payments may be subject to
5 recovery.

6 **Article 9**

7 **Cultural and Linguistic Competency**

8 **9.1 Equal Access.** Contractor shall not discriminate against persons served based on
9 sex, race, religion, color, national origin, ancestry, ethnic group identification, physical disability,
10 mental disability, medical condition, genetic information, sexual orientation, marital status, age,
11 gender, gender identity, gender expression, or military or veteran status. Contractor shall
12 ensure that a limited and/or no English person served is entitled to equal access and
13 participation in federally funded programs through the provision of comprehensive and quality
14 bilingual services pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d,
15 and 45 C.F.R. Part 80) and Executive Order 12250 of 1979.

16 **9.2 Policies and Procedures.** Contractor is responsible to provide culturally competent
17 services. Contractor's policies, procedures and practices must be consistent with the principles
18 outlined and embedded in the organizational structure, as well as upheld in day-to-day
19 operations. Contractor's policies and procedures shall ensure compliance of any subcontracted
20 providers with these requirements.

21 **9.3 Interpreter Services.** Contractor shall be responsible for ensuring access and
22 appropriate use of trained interpreters for all limited and/or non-English proficient persons
23 served, including but not limited to assessing the cultural and linguistic needs of the person
24 served, training of staff on the policies and procedures, and monitoring its language assistance
25 programs. Contractor shall provide and pay for interpreting and translation services to persons
26 participating in Contractor's services who have limited or no English language proficiency,
27 including services to person who are deaf or blind. Interpreter and translation services shall be
28 provided as necessary to allow such persons served meaningful access to the programs,

1 services and benefits provided by Contractor. Interpreter and translation services, including
2 translation of Contractor’s “vital documents” (those documents that contain information that is
3 critical for accessing Contractor’s services or are required by law) shall be provided to persons
4 served at no cost to the person.

5 **9.4 Interpreter Qualifications.** Contractor shall ensure that employees, agents,
6 subcontractors, and/or partners who interpret or translate for a person served or who directly
7 communicate with a person served in a language other than English (1) have completed
8 annual training provided by County at no cost to Contractor; (2) have demonstrated proficiency
9 in the person served’s language; (3) can effectively communicate any specialized terms and
10 concepts specific to Contractor’s services; and (4) adheres to generally accepted interpreter
11 ethic principles. As requested by County, Contractor shall identify all who interpret for or
12 provide direct communication to any program person served in a language other than English
13 and identify when the Contractor last monitored the interpreter for language competence.

14 **9.5 Prohibition on Use of Minors.** Contractor shall not use minors as interpreters.

15 **9.6 CLAS Standards.** In compliance with the State-mandated Culturally and
16 Linguistically Appropriate Services standards as published by the Office of Minority Health, new
17 Contractors must submit to County for approval, within 60 days from the date of Agreement
18 execution, Contractor’s plan to address all fifteen national cultural competency standards as
19 set forth in the “National Standards on Culturally and Linguistically Appropriate Services”
20 (CLAS), Exhibit H to this Agreement. County’s annual on-site review of Contractor shall include
21 collection of documentation to ensure all national standards are implemented. As the national
22 competency standards are updated, Contractor’s plan must be updated accordingly.

23 **9.7 Self-Assessment and CLAS Plan.** Contractor shall participate in the County’s
24 efforts to promote the delivery of services in a culturally competent and equitable manner in
25 accordance with 42 CFR § 437.206(c)(2) to all person served, including those with limited
26 English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of
27 gender, sexual orientation or gender identity. Contractor shall complete and submit the county-
28

1 issued CLAS self-assessment annually. Contractor shall develop a cultural competency plan
2 and subsequent plan updates annually or as needed.

3 **9.8 Training Requirements.** Cultural competency training for Contractor staff should
4 be substantively integrated into health professionals education and training at all levels, both
5 academically and functionally, including core curriculum, professional licensure, and continuing
6 professional development programs. Contractor shall document the completion of cultural
7 competency trainings per the minimum requirements in the Fresno County SUD Annual
8 Provider Training Plan.

9 **9.9 Continuing Cultural Competence.** Contractor shall create and sustain a forum
10 that includes staff at all agency levels to discuss cultural competence.

11 **Article 10**

12 **Inspections, Audits, and Public Records**

13 **10.1 Inspection of Documents.** The Contractor shall make available to the County, and
14 the County may examine at any time during business hours and as often as the County deems
15 necessary, all of the Contractor's records and data with respect to the matters covered by this
16 Agreement, excluding attorney-client privileged communications. The Contractor shall, upon
17 request by the County, permit the County to audit and inspect all of such records and data to
18 ensure the Contractor's compliance with the terms of this Agreement.

19 The refusal of Contractor to permit access to, and inspection of, electronic or print books
20 and records, physical facilities, and/or refusal to permit interviews with employees, as described
21 in this part, constitutes an express and immediate material breach of this Agreement and will be
22 sufficient basis to terminate the Agreement for cause or default.

23 The right to audit under this article exists for ten (10) years from the final date of the
24 agreement period or from the date of completion of any audit, whichever is later.

25 Notwithstanding the provisions stated in Article 5, Termination And Suspension, it is
26 acknowledged by the parties hereto that this Agreement shall continue in full force and effect
27 until all audit procedures and requirements as stated in this Agreement have been completed to
28 the review and satisfaction of County. Contractor shall bear all costs in connection with or

1 resulting from any audit and/or inspections including, but not limited to, actual costs incurred and
2 the payment of any expenditures disallowed by either County, State, or Federal governmental
3 entities, including any assessed interest and penalties.

4 If Contractor, through an audit by the State or County, is found to be in violation of this
5 Agreement which results in the recoupment of funds paid to Contractor, County shall recapture
6 from Contractor the value of any services or other expenditures determined to be ineligible based
7 on the County or State monitoring results. Recoupments shall be processed according to Article 1,
8 clause 1.8 of this Agreement.

9 **10.2 State Audit Requirements.** If the compensation to be paid by the County under
10 this Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the
11 California State Auditor, as provided in Government Code section 8546.7, for a period of three
12 years after final payment under this Agreement. This section survives the termination of this
13 Agreement.

14 **10.3 Public Records.** The County is not limited in any manner with respect to its public
15 disclosure of this Agreement or any record or data that the Contractor may provide to the
16 County. The County's public disclosure of this Agreement or any record or data that the
17 Contractor may provide to the County may include but is not limited to the following:

18 (A) The County may voluntarily, or upon request by any member of the public or
19 governmental agency, disclose this Agreement to the public or such governmental
20 agency.

21 (B) The County may voluntarily, or upon request by any member of the public or
22 governmental agency, disclose to the public or such governmental agency any record or
23 data that the Contractor may provide to the County, unless such disclosure is prohibited
24 by court order.

25 (C) This Agreement, and any record or data that the Contractor may provide to the
26 County, is subject to public disclosure under the Ralph M. Brown Act (California
27 Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).
28

1 (D) This Agreement, and any record or data that the Contractor may provide to the
2 County, is subject to public disclosure as a public record under the California Public
3 Records Act (California Government Code, Title 1, Division 7, Chapter 3.5, beginning
4 with section 6250) (“CPRA”).

5 (E) This Agreement, and any record or data that the Contractor may provide to the
6 County, is subject to public disclosure as information concerning the conduct of the
7 people’s business of the State of California under California Constitution, Article 1,
8 section 3, subdivision (b).

9 (F) Any marking of confidentiality or restricted access upon or otherwise made with
10 respect to any record or data that the Contractor may provide to the County shall be
11 disregarded and have no effect on the County’s right or duty to disclose to the public or
12 governmental agency any such record or data.

13 **10.4 Public Records Act Requests.** If the County receives a written or oral request
14 under the CPRA to publicly disclose any record that is in the Contractor’s possession or
15 control, and which the County has a right, under any provision of this Agreement or applicable
16 law, to possess or control, then the County may demand, in writing, that the Contractor deliver
17 to the County, for purposes of public disclosure, the requested records that may be in the
18 possession or control of the Contractor. Within five business days after the County’s demand,
19 the Contractor shall (a) deliver to the County all of the requested records that are in the
20 Contractor’s possession or control, together with a written statement that the Contractor, after
21 conducting a diligent search, has produced all requested records that are in the Contractor’s
22 possession or control, or (b) provide to the County a written statement that the Contractor, after
23 conducting a diligent search, does not possess or control any of the requested records. The
24 Contractor shall cooperate with the County with respect to any County demand for such
25 records. If the Contractor wishes to assert that any specific record or data is exempt from
26 disclosure under the CPRA or other applicable law, it must deliver the record or data to the
27 County and assert the exemption by citation to specific legal authority within the written
28 statement that it provides to the County under this section. The Contractor’s assertion of any

1 exemption from disclosure is not binding on the County, but the County will give at least 10
2 days' advance written notice to the Contractor before disclosing any record subject to the
3 Contractor's assertion of exemption from disclosure. The Contractor shall indemnify the County
4 for any court-ordered award of costs or attorney's fees under the CPRA that results from the
5 Contractor's delay, claim of exemption, failure to produce any such records, or failure to
6 cooperate with the County with respect to any County demand for any such records.

7 **10.5 Single Audit Clause.** If Contractor expends Seven Hundred Fifty Thousand Dollars
8 (\$750,000) or more in Federal and Federal flow-through monies, Contractor agrees to conduct
9 an annual audit in accordance with the requirements of the Single Audit Standards as set forth
10 in 2 CFR Part 200. Financial audit reports must contain a separate schedule that identifies all
11 funds included in the audit that are received from or passed through the County. County
12 programs must be identified by Agreement number, Agreement amount, Agreement period,
13 and the amount expended during the fiscal year by funding source.

14 The audit must include a statement of findings or a statement that there were no
15 findings. If there were negative findings, Contractor must submit any required corrective action
16 plan, signed by an authorized individual, simultaneously with the audit report or as soon
17 thereafter as is available. Contractor agrees to take action to correct any material non-
18 compliance or weakness found as a result of such audit. County shall monitor implementation of
19 the corrective action plan as it pertains to services provided pursuant to this Agreement.

20 A single audit report is not applicable if Contractor's Federal contracts do not exceed
21 the Seven Hundred Fifty Thousand Dollars (\$750,000) requirement or Contractor's only funding
22 is through Drug Medi-Cal. If a single audit is not applicable, a program audit must be performed
23 and a program audit report with management letter shall be submitted by Contractor to County
24 as a minimum requirement to attest to Contractor's solvency.

25 Failure to perform the requisite audit functions as required by this Agreement may
26 result in County performing the necessary audit tasks, or at County's option, contracting with a
27 public accountant to perform said audit, or may result in the inability of County to enter into
28

1 future agreements with Contractor. All audit costs related to this Agreement are the sole
2 responsibility of Contractor.

3 Contractor shall make available all records and accounts for inspection by County,
4 the State of California, if applicable, the Comptroller General of the United States, the Federal
5 Grant Agency, or any of their duly authorized representatives, at all reasonable times for a
6 minimum of ten (10) years, in accordance with 42 CFR Part 438.3(h), from the finalized cost
7 settlement process or, if an audit by the Federal government or DHCS has been started before
8 the expiration of the ten (10) year period, records shall be maintained until completion of the
9 audit and final resolution of all findings.

10 **Article 11**

11 **Disclosure of Self-Dealing Transactions**

12 **11.1 Applicability.** This Article 11 applies if the Contractor is operating as a corporation
13 or changes its status to operate as a corporation.

14 **11.2 Duty to Disclose.** If any member of the Contractor's board of directors is party to a
15 self-dealing transaction, he or she shall disclose the transaction by completing and signing a
16 "Self-Dealing Transaction Disclosure Form" (Exhibit I to this Agreement) and submitting it to the
17 County before commencing the transaction or immediately after.

18 **11.3 Definition.** "Self-dealing transaction" means a transaction to which the Contractor is
19 a party and in which one or more of its directors, as an individual, has a material financial
20 interest.

21 **Article 12**

22 **Federal and State Laws**

23 **12.1 Conflict of Interest.** No officer, agent, or employee of County who exercised any
24 function or responsibility for planning and carrying out the services provided under this
25 Agreement shall have any direct or indirect personal financial interest in this Agreement.
26 Contractor shall comply with all Federal, State of California, and local conflict of interest laws,
27 statutes, and regulations, which shall be applicable to all parties and persons served under this
28 Agreement and any officer, agent, or employee of County.

1 **12.2 Disclosure of Ownership and/or Control Interest Information.** This provision is
2 only applicable if Contractor is a disclosing entity, fiscal agent, or managed care entity as
3 defined in 42 CFR §§ 455.101, 455.104, and 455.106(a)(1)(2).

4 Contractor shall provide information on ownership and controlling interests,
5 disclosures related to business transactions, and disclosures related to persons convicted of
6 crimes in the form and manner requested by the County, by the effective date, each time the
7 Agreement is renewed and within thirty (30) days of any change in ownership or controlling
8 interest of Contractor.

9 Contractor must disclose the following information requested in Exhibit J to this
10 Agreement, titled "Disclosure of Ownership and Control Interest Statement":

11 (A) Disclosure of 5% or more ownership interest:

12 (1) In the case of corporate entities with an ownership or control interest in the
13 disclosing entity, the primary business address as well as every business location
14 and P.O Box address must be disclosed.

15 (2) In the case of an individual, the date of birth and Social Security Number
16 must be disclosed.

17 (3) In the case of a corporation with ownership or control interest in the
18 disclosing entity or in any subcontractor in which the disclosing entity has a five
19 percent (5%) or more interest, the corporation tax identification number must be
20 disclosed.

21 (4) For individuals with five percent (5%) or more direct or indirect ownership
22 interest of a disclosing entity, the individual shall provide evidence of completion of a
23 criminal background check, including fingerprinting, if required by law, prior to
24 execution of Agreement (42 C.F.R. § 455.434).

25 (B) Disclosures Related to Business Transactions:

26 (1) The ownership of any subcontractor with whom Contractor has had business
27 transactions totaling more than \$25,000 during the 12-month period ending on the
28 date of the request.

1 (2) Any significant business transactions between Contractor and any wholly
2 owned supplier, or between Contractor and any subcontractor, during the 5-year
3 period ending on the date of the request (42 C.F.R. § 455.105(b)).

4 (C) Disclosures Related to Person Convicted of Crimes:

5 (1) The identity of any person who has an ownership or control interest in the
6 Contractor or is an agent or managing employee of the Contractor who has been
7 convicted of a criminal offense related to that person's involvement in any program
8 under the Medicare, Medicaid, or Title XXI services program since the inception of
9 those programs (42 C.F.R. § 455.106).

10 (2) County shall terminate the enrollment of Contractor if any person with five
11 percent (5%) or greater direct or indirect ownership interest in the disclosing entity
12 has been convicted of a criminal offense related to the person's involvement with
13 Medicare, Medicaid, or Title XXI program in the last 10 years.

14 (D) Contractor must provide disclosure upon execution of Agreement, extension for
15 renewal, and within 35 days after any change in Contractor ownership or upon request
16 of County. County may refuse to enter into an Agreement or terminate an existing
17 Agreement with a Contractor if the Contractor fails to disclose ownership and control
18 interest information, information related to business transactions and information on
19 persons convicted of crimes, or if the Contractor did not fully and accurately make the
20 disclosure as required.

21 (E) Contractor must provide the County with written disclosure of any prohibited
22 affiliations under 42 C.F.R. §438.610.

23 **12.3 Disability Access.** New facilities shall be wheelchair accessible and provide
24 access to the disabled, consistent with CCR Title 9, § 10820. If a new facility will be utilized, a
25 plan ensuring accessibility to the disabled must be developed. DBH shall assess, monitor, and
26 document Contractor's compliance with the Rehabilitation Act of 1973 and Americans with
27 Disabilities Act of 1990 to ensure that persons served are provided services without regard to
28

1 physical or mental disability and that Contractor has provided a facility accessible to the
2 physically disabled.

3 **12.4 Child Abuse Reporting.** Contractor shall utilize a procedure acceptable to the
4 County to ensure that all of Contractor's employees, volunteers, consultants, subcontractors or
5 agents performing services under this Agreement shall report all known or suspected child
6 abuse or neglect to one or more of the agencies set forth in Penal Code §11165.9. This
7 procedure shall include having all of Contractor's employees, volunteers, consultants,
8 subcontractors or agents performing services under this Agreement sign a statement that he or
9 she knows of and will comply with the reporting requirements set forth in Penal Code § 11166.
10 The statement to be utilized by Contractor for reporting set forth in Exhibit K to this Agreement,
11 "Notice of Child Abuse Reporting."

12 **Article 13**

13 **Data Security**

14 **13.1 Security Requirements.** Contractor shall comply with all the data security
15 requirements in Exhibit L, Data Security, to this Agreement.

16 **Article 14**

17 **Property of County**

18 **14.1 Applicability.** Article 14 shall only apply to the program components and services
19 provided under operational costs.

20 **14.2 Fixed Assets.** County and Contractor recognize that fixed assets are tangible and
21 intangible property obtained or controlled under County for use in operational capacity and will
22 benefit County for a period more than one (1) year.

23 **14.3 Agreement Assets.** Assets shall be tracked on an agreement by agreement basis.
24 All of these assets shall fall into the "Equipment" category unless funding source allows for
25 additional types of assets. At a minimum, the following types of items are considered to be
26 assets:

27 (A) Computers (desktops and laptops)*

28 (B) Copiers, cell phones, tablets, and other devices with any HIPAA data

1 (C) Modular furniture

2 (D) Any items over \$500 or more with a lifespan of at least two (2) years:

3 (1) Televisions

4 (2) Washers/Dryers

5 (3) Printers

6 (4) Digital Cameras

7 (5) Other equipment/furniture

8 (6) Items in total when purchased or used as a group fall into one or more of the
9 above categories

10 (E) Items of sensitive nature shall be purchased and allocated to a single agreement.

11 All items containing HIPAA data are considered sensitive.

12 Contractor shall ensure proper tracking for contact assets that include the following asset
13 attributes at a minimum:

14 (A) Description of the asset;

15 (B) The unique identifier of the asset if applicable, i.e., serial number;

16 (C) The acquisition date;

17 (D) The quantity of the asset;

18 (E) The location of the asset or to whom the asset is assigned;

19 (F) The cost of the asset at the time of acquisition;

20 (G) The source of grant funding if applicable;

21 (H) The disposition date, and

22 (I) The method of disposition (surplus, transferred, destroyed, lost)

23 All Contract assets shall be returned to the Department at the end of the agreement period.

24 **14.4 Retention and Maintenance.** Assets shall be retained by County, as County
25 property, in the event this Agreement is terminated or upon expiration of this Agreement.
26 Contractor agrees to participate in an annual inventory of all County fixed and inventoried
27 assets. Upon termination or expiration of this Agreement, Contractor shall be physically
28 present when fixed and inventoried assets are returned to County possession. Contractor is

1 responsible for returning to County all County owned undepreciated fixed and inventoried
2 assets, or the monetary value of said assets if unable to produce the assets at the expiration or
3 termination of this Agreement. Contractor further agrees to the following:

4 Maintain all items of equipment in good working order and condition, normal wear and tear
5 excepted;

6 Label all items of equipment with County assigned program number, to perform periodic
7 inventories as required by County and to maintain an inventory list showing where and how the
8 equipment is being used in accordance with procedures developed by County. All such lists
9 shall be submitted to County within ten (10) days of any request therefore; and

10 Report in writing to County immediately after discovery, the loss or theft of any items of
11 equipment. For stolen items, the local law enforcement agency must be contacted, and a copy
12 of the police report submitted to County.

13 **14.5 Equipment Purchase.** The purchase of any equipment by Contractor with funds
14 provided hereunder shall require the prior written approval of County's DBH Director or
15 designee, shall fulfill the provisions of this Agreement as appropriate, and must be directly
16 related to Contractor's services or activity under the terms of this Agreement. County may
17 refuse reimbursement for any costs resulting from equipment purchased, which are incurred by
18 Contractor, if prior written approval has not been obtained from County.

19 **14.6 Modification.** Contractor must obtain prior written approval from County's DBH
20 whenever there is any modification or change in the use of any property acquired or improved,
21 in whole or in part, using funds under this Agreement. If any real or personal property acquired
22 or improved with said funds identified herein is sold and/or is utilized by Contractor for a use
23 which does not qualify under this Agreement, Contractor shall reimburse County in an amount
24 equal to the current fair market value of the property, less any portion thereof attributable to
25 expenditures of funds not provided under this Agreement. These requirements shall continue
26 in effect for the life of the property. In the event this Agreement expires, the requirements for
27 this Article shall remain in effect for activities or property funded with said funds, unless action
28 is taken by the State government to relieve County of these obligations.

1 **Article 15**

2 **Federal and State Laws**

3 **15.1 Health Insurance Portability and Accountability Act.** County and Contractor
4 each consider and represent themselves as covered entities as defined by the U.S. Health
5 Insurance Portability and Accountability Act of 1996, Public Law 104- 191(HIPAA) and agree to
6 use and disclose protected health information as required by law.

7 County and Contractor acknowledge that the exchange of protected health information
8 between them is only for treatment, payment, and health care operations.

9 County and Contractor intend to protect the privacy and provide for the security of
10 Protected Health Information (PHI) pursuant to the Agreement in compliance with HIPAA, the
11 Health Information Technology for Economic and Clinical Health Act, Public Law 111-005
12 (HITECH), and regulations promulgated thereunder by the U.S. Department of Health and
13 Human Services (HIPAA Regulations) and other applicable laws.

14 As part of the HIPAA Regulations, the Privacy Rule and the Security Rule require
15 Contractor to enter into a contract containing specific requirements prior to the disclosure of
16 PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e)
17 of the Code of Federal Regulations (CFR).

18 Contractor is required to follow the standards set forth in the HIPAA Business Associate
19 Provision attached to this Agreement as Exhibit M.

20 **Article 16**

21 **General Terms**

22 **16.1 Modification.** Except as provided in Article 5, "Termination and Suspension," this
23 Agreement may not be modified, and no waiver is effective, except by written agreement
24 signed by both parties. The Contractor acknowledges that County employees have no authority
25 to modify this Agreement except as expressly provided in this Agreement.

26 (A) Notwithstanding the above, non-material changes to services, staffing, and
27 responsibilities of the Contractor, as needed, to accommodate changes in the laws
28 relating to service requirements and specialty mental health treatment, may be made

1 with the signed written approval of County's DBH Director, or designee, and Contractor
2 through an amendment approved by County's County Counsel and the County's Auditor-
3 Controller/Treasurer-Tax Collector's Office. Said modifications shall not result in any
4 change to the maximum compensation amount payable to Contractor, as stated herein.

5 **16.2 Non-Assignment.** Neither party may assign its rights or delegate its obligations
6 under this Agreement without the prior written consent of the other party.

7 **16.3 Governing Law.** The laws of the State of California govern all matters arising from
8 or related to this Agreement.

9 **16.4 Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
10 County, California. Contractor consents to California jurisdiction for actions arising from or
11 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
12 brought and maintained in Fresno County.

13 **16.5 Construction.** The final form of this Agreement is the result of the parties'
14 combined efforts. If anything in this Agreement is found by a court of competent jurisdiction to
15 be ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
16 against either party.

17 **16.6 Days.** Unless otherwise specified, "days" means calendar days.

18 **16.7 Headings.** The headings and section titles in this Agreement are for convenience
19 only and are not part of this Agreement.

20 **16.8 Severability.** If anything in this Agreement is found by a court of competent
21 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains
22 in effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
23 this Agreement with lawful and enforceable terms intended to accomplish the parties' original
24 intent.

25 **16.9 Nondiscrimination.** During the performance of this Agreement, the Contractor shall
26 not unlawfully discriminate against any employee or applicant for employment, or recipient of
27 services, because of race, religious creed, color, national origin, ancestry, ethnic group
28 identification, physical disability, mental disability, medical condition, genetic information,

1 marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military
2 status or veteran status pursuant to all applicable State of California and federal statutes and
3 regulation.

4 (A) Contractor shall comply with California Government Code, § 2990 and CCR Title
5 2, Division 4, Chapter 5, in matters related to the development, implementation, and
6 maintenance of a nondiscrimination program.

7 (B) Contractor agrees to post in conspicuous places, notices available to all
8 employees and applicants for employment setting forth the provisions of the Equal
9 Opportunity Act (42 USC § 2000(e)) in conformance with Federal Executive Order No.
10 11246.

11 (C) Contractor agrees to comply with the provisions of the Rehabilitation Act of 1973
12 (29 USC § 794).

13 **16.10 Nepotism.** Except by consent of the DBH Director, or his or her designee, no
14 person shall be employed by Contractor who is related by blood or marriage to or who is a
15 member of the Board of Directors or an officer of Contractor.

16 **16.11 No Waiver.** Payment, waiver, or discharge by the County of any liability or
17 obligation of the Contractor under this Agreement on any one or more occasions is not a
18 waiver of performance of any continuing or other obligation of the Contractor and does not
19 prohibit enforcement by the County of any obligation on any other occasion.

20 **16.12 Entire Agreement.** This Agreement, including its exhibits, is the entire agreement
21 between the Contractor and the County with respect to the subject matter of this Agreement,
22 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,
23 publications, and understandings of any nature unless those things are expressly included in
24 this Agreement. If there is any inconsistency between the terms of this Agreement without its
25 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving
26 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the
27 exhibits.

1 **16.13 No Third-Party Beneficiaries.** This Agreement does not and is not intended to
2 create any rights or obligations for any person or entity except for the parties.

3 **16.14 Authorized Signature.** The Contractor represents and warrants to the County that:

4 (A) The Contractor is duly authorized and empowered to sign and perform its
5 obligations under this Agreement.

6 (B) The individual signing this Agreement on behalf of the Contractor is duly
7 authorized to do so and his or her signature on this Agreement legally binds the
8 Contractor to the terms of this Agreement.

9 **16.15 Electronic Signatures.** The parties agree that this Agreement may be executed by
10 electronic signature as provided in this section.

11 (A) An “electronic signature” means any symbol or process intended by an individual
12 signing this Agreement to represent their signature, including but not limited to (1) a
13 digital signature; (2) a faxed version of an original handwritten signature; or (3) an
14 electronically scanned and transmitted (for example by PDF document) version of an
15 original handwritten signature.

16 (B) Each electronic signature affixed or attached to this Agreement (1) is deemed
17 equivalent to a valid original handwritten signature of the person signing this Agreement
18 for all purposes, including but not limited to evidentiary proof in any administrative or
19 judicial proceeding, and (2) has the same force and effect as the valid original
20 handwritten signature of that person.

21 (C) The provisions of this section satisfy the requirements of Civil Code section
22 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
23 Part 2, Title 2.5, beginning with section 1633.1).

24 (D) Each party using a digital signature represents that it has undertaken and
25 satisfied the requirements of Government Code section 16.5, subdivision (a),
26 paragraphs (1) through (5), and agrees that each other party may rely upon that
27 representation.
28

1 (E) This Agreement is not conditioned upon the parties conducting the transactions
2 under it by electronic means and either party may sign this Agreement with an original
3 handwritten signature.

4 **16.16 Counterparts.** This Agreement may be signed in counterparts, each of which is an
5 original, and all of which together constitute this Agreement.

6 [SIGNATURE PAGE FOLLOWS]
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 The parties are signing this Agreement on the date stated in the introductory clause.

2 Carelon Behavioral Health of California, Inc. County of Fresno
3

4 Briana Duffy 6/5/2023
5 Briana C. Duffy, President
6 12900 Park Plaza Drive,
Cerritos CA 90703

Sal Quintero
Sal Quintero, Chairman of the Board of
Supervisors of the County of Fresno

Attest:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: Hananeh
Deputy

11 For accounting use only:
12 Org No.: 56302081
13 Account No.: 7295/0
14 Fund No.: 0001
15 Subclass No.:10000
16
17
18
19
20
21
22
23
24
25
26
27
28

**Administrative Services Organization
Substance Use Disorder Residential Service Authorizations
Scope of Work**

Organization: Carelon Behavioral Health of California, Inc.
Service Address: 12898 Towne Center Drive, Cerritos, CA 90703
Program Director: Neil Collins, Account Partnerships Director
Contract Period: March 1, 2023 through June 30, 2025
with two (2) optional twelve (12) month renewals

1.0 BACKGROUND:

The DMC – ODS Waiver requires that counties provide prior authorization for residential services within 24 hours of the prior authorization request being submitted by providers. Carelon Behavioral Health of California, Inc. (Carelon Behavioral Health) will provide this service on behalf of Fresno County. Carelon Behavioral Health will review the Diagnostic and Statistical Manual of Mental Disorders (DSM -5) and American Society of Addiction Medicine (ASAM) criteria to ensure that the beneficiary meets the requirements for service. Carelon Behavioral Health shall have written policies and procedures for processing requests for initial and continuing authorization of services.

Carelon Behavioral Health must have a mechanism in place to ensure that there is consistent application of review criteria for authorization decisions and shall consult with the requesting provider when appropriate. Carelon Behavioral Health is to meet the established timelines for decisions for service authorizations to be made within 24 hours of facility request. Written notices will be provided to the SUD residential treatment provider for documentation purposes with a copy provided to the person served seeking treatment within 24 hours of the determination being made. Counties are required to track the number, percentage of denied, and timeliness of requests for authorization for all DMC-ODS services that are submitted, processed, approved, and denied. This prior authorization for residential services is compliant with the Medicaid-applicable parity requirements established by the Mental Health Parity and Addiction Equity Act. Non-residential services shall not require prior authorization.

2.0 TARGET POPULATION:

Service authorizations will be made for Fresno County SUD clients seeking treatment at a Fresno County DBH – contracted SUD residential treatment program. Carelon Behavioral Health will receive necessary information from the residential treatment program including but not limited to ASAM level of care assessment and DSM 5 diagnosis. Upon receipt of all necessary

information, Carelon Behavioral Health will make a decision as to authorization for residential treatment services based on ASAM level of care, DSM 5 diagnosis, and other criteria as specified by Fresno County DBH, DHCS, or CMS. An approval or denial of the request will be provided to the SUD contracted provider and the beneficiary as required by DHCS.

3.0 LOCATION OF SERVICES:

The physical location of the service authorization offices will be in Los Angeles County, CA. Carelon Behavioral Health will be allowed to utilize remote, telecommuting staff to ensure availability of California licensed practitioners of the healing arts (LPHA) for responding to provider calls for review and authorization of treatment requests twenty-four hours a day, seven days per week.

4.0 DESCRIPTION OF SERVICES:

DBH SUD – contracted providers will be required to submit service authorization requests for residential services telephonically, which may include electronic submission of appropriate documentation/information supporting medical necessity for the recommended ASAM level of care. Residential services consist of ASAM levels 3.1, 3.3, 3.5 and 3.2-WM. Should County add ASAM levels 3.7 and 4.0, Carelon Behavioral Health will also process those service requests. Service authorizations for residential services will be processed within 24 hours of a complete request being submitted. A complete request will consist of a completed assessment and initial determination of diagnosis form. Carelon Behavioral Health will review each service request for accuracy, client eligibility, eligible diagnosis, and ensure ASAM criteria and medical necessity is met. Carelon Behavioral Health will be responsible for notifying providers and DBH of approval/denial. Carelon Behavioral Health will be responsible for developing and implementing a process for peer review before denying service authorizations. The process will consist of the service request being reviewed by a licensed clinician (different from the original reviewer) or medical director who may communicate directly with the provider and/or client to gather more information if necessary.

If a service authorization request is denied, Carelon Behavioral Health will be responsible for sending all required Notice of Adverse Benefit Determination (NOABD) forms to the beneficiary requesting services and to the treatment provider. The beneficiary (or treatment provider on behalf of the beneficiary) may appeal the denial. The treating provider will submit documentation for appeal review to DBH. The appeals process may be modified, by DBH, from time to time to meet local, state, or federal requirements, or for improvements. Carelon Behavioral Health will provide a log of all appeal requests including provider information, beneficiary information, and disposition will be provided to DBH on a monthly basis for review.

DBH will monitor the number, percentage and time period of treatment service authorization requests approved or denied by Carelon Behavioral Health.

County DBH will conduct reviews of service authorization functions, either in-person or remotely, on a quarterly basis the first fiscal year and semiannually thereafter. The reviews will encompass the following to ensure compliance with DBH, DHCS, and CMS requirements:

- Staff qualifications and trainings
- Procedures for approval/denials of service requests
- Confidentiality and privacy of beneficiary information
- Adherence to rules and regulations to DBH, DHCS, and CMS requirements
- Timeliness
- Contract compliance
- Correct placement of ASAM level of care

Data collected and maintained by Carelon Behavioral Health related to the services described herein will be provided to DBH in a form approved by DBH on a monthly basis during the term of this agreement or as needed to ensure compliance with reporting requirements. The process by which data is provided will be approved by DBH to help facilitate reporting requirements.

5.0 STAFFING:

The service authorization function will be staffed by licensed practitioners of the healing arts as defined by DHCS/Special Terms and Conditions. Staff will be trained in ASAM and will review a standardized ASAM assessment and medical diagnosis form (approved by DBH) for approval/denial of service authorization requests. Non-clinical staff may be utilized to support clinical staff with administrative duties such as data entering, Medi-Cal eligibility determination, and other general administrative functions.

Job descriptions for each staff position will be provided to DBH for review prior to project implementation.

Staff will be trained with a client-centered approach. Ongoing training will include topics such as:

- Administrative, operational, human resource, and information technology areas
- Cultural competency, including cultural awareness and responsiveness
- Motivational interviewing
- Two of the following four evidence-based practices (EBP): Psycho-education, trauma informed treatment, cognitive behavioral therapy, relapse prevention
- Specialized clinical training (ASAM training must be provided)
- Health and wellness promotion, illness and harm prevention, and stigma reduction
- Staff will be trained to become familiar with County DBH's EHR

A training plan for each staff member shall be submitted to DBH quarterly listing all trainings completed and pending/planned for each fiscal year.

All clinical staff must be credentialed by DBH using DBH's established forms and process for credentialing.

6.0 HOURS OF OPERATION:

Monday – Sunday: 8:00AM – 5:30PM. Hours may change to accommodate the volume of service authorizations being requested by DBH SUD contracted providers with DBH approval.

Service authorizations will be provided on a schedule that allows Carelon Behavioral Health to process all requests for SUD residential services within County, DHCS, and CMS timeliness requirements. Requests for SUD residential services must be approved/denied within 24 hours of the request being made. Additionally, Carelon Behavioral Health may temporarily extend office hours in order to accommodate the volume of service authorizations received.

7.0 AVERAGE CLIENT LENGTH OF STAY:

Length of stay for residential treatment services shall be determined by a Licensed Practitioner of the Healing Arts (LPHA) based on medical necessity for the person served. Carelon Behavioral Health will manage average length of stay (ALOS) through collaboration with the DBH and residential facilities to support appropriate application of medical necessity criteria as part of the concurrent review process. Carelon Behavioral Health will continue to issue an initial authorization in increments of 30 days. Continued stay authorizations will be issued in increments of up to 30 days as long as medical necessity and ASAM criteria are met.

Providers are responsible for initiating a request for continued residential service authorization. The authorized lengths of stay for continued care may vary according to the assessed medical necessity for the individual served. A determination of approval/denial of continued authorization request will be issued within 24 hours of a completed authorization request being provided.

In accordance with Centers for Medicare & Medicaid Services (CMS) State Medicaid Director Letter #17-0003 and Behavioral Health Information Notice 21-021, the statewide goal for the average length of stay for residential treatment services provided by participating bidders is 30 days or less. In furtherance of that goal, Carelon Behavioral Health shall adhere to the length of stay monitoring requirements set forth by DHCS and DBH; Carelon Behavioral Health will also need to demonstrate in-house quality assurance reviews on a periodic basis.

8.0 COUNTY RESPONSIBILITIES:

County Shall:

1. Provide oversight (through the County Department of Behavioral Health (DBH), Adult System of Care, Division Managers or designees) of Carelon Behavioral Health's

Administrative Services Organization. In addition to contract monitoring of services, oversight includes, but is not limited to, coordination with the California Department of Health Care Services and the Center for Medicaid and Medicare Services in regard to program administration and outcomes.

2. Assist Carelon Behavioral Health in making linkages with the total behavioral health system; this will be accomplished through regularly scheduled meetings as well as formal and informal consultation.
3. Participate in evaluating the progress of the overall program and the efficiency of collaboration with the vendor staff and will be available to Carelon Behavioral Health for ongoing consultation.
4. Receive and analyze statistical data outcome information from vendor throughout the term of contract on a monthly basis. DBH will notify the vendor when additional participation is required. The performance outcome measurement process will not be limited to survey instruments but will also include, as appropriate, client and staff interviews, chart reviews, and other methods of obtaining required information.
5. Recognize that cultural competence is a goal toward which professionals, agencies, and systems should strive. Becoming culturally competent is a developmental process and incorporates at all levels the importance of culture, the assessment of cross-cultural relations, vigilance towards the dynamics that result from cultural differences, the expansion of cultural knowledge, and the adaptation of services to meet culturally-unique needs. Offering those services in a manner that fails to achieve its intended result due to cultural and linguistic barriers is not cost effective. To assist the vendor's efforts towards cultural and linguistic competency, DBH shall provide the following at no cost to vendor(s):
 - A. Technical assistance to vendor regarding cultural competency requirements and sexual orientation training.
 - B. Mandatory cultural competency training including sexual orientation and sensitivity training for DBH and vendor personnel, at minimum once per year. County will provide mandatory training regarding the special needs of this diverse population and will be included in the cultural competence training(s). Sexual orientation and sensitivity to gender differences is a basic cultural competence principle and shall be included in the cultural competency training. Literature suggests that the mental health needs of lesbian, gay, bisexual, transgender (LGBT) individuals may be at increased risk for mental disorders and mental health problems due to exposure to societal stressors such as stigmatization, prejudice and anti-gay violence. Social support may be critical for this population. Access to care may be limited due to concerns about providers' sensitivity to differences in sexual orientation.
 - C. Technical assistance for vendor in translating behavioral health and substance abuse services information into DBH's threshold languages (Spanish and Hmong). Translation services and costs associated will be the responsibility of the vendor.

9.0 PROGRAM OBJECTIVES AND OUTCOMES:

Carelon Behavioral Health shall utilize a computerized tracking system with which performance and outcome measures and other relevant client data, such as demographics, will be maintained. The data tracking system may be incorporated into Carelon Behavioral Health’s electronic health records (EHR) system or be a stand-alone database. Data will be transferred to DBH on a monthly basis or as determined by DBH. DBH may adjust the outcome measurements needed under these programs periodically, to best measure the success of clients and programs as determined by the County.

The following items listed below represent program goals to be tracked and achieved by the vendor during contract terms.

Carelon Behavioral Health will track all outcomes and data as required by the DMC-ODS 1115 Waiver. DBH may require additional outcomes and data to be tracked and reported. Measures are based on DBH’s three “Value Driven” philosophies: engagement, timeliness, and matching client’s needs to appropriate services. DBH reflects the Commission of Accreditation of Rehabilitation Facilities (CARF) domains comprising of *Effectiveness, Efficiency, Access, Satisfaction & Feedback of Persons Served and Stakeholders*. Carelon Behavioral Health will record at least the following:

- Data will be provided by requested provider and residential ASAM level of care and urgent conditions
- Number of residential service authorizations received, approved, and denied
- Service authorization processing times (whether or not the request was processed within 24 hours)
- Number of appeals related to denials of service authorizations, including timeliness of responses
- Name of Licensed Practitioner of the Healing Arts who approved medical necessity for the person served

List of Reports

File Name	Frequency	Due Date	Operational Area
4365.1.H1 - Fresno County Clinical Reviews - Previous Month	Monthly	15th of Month	Clinical
91739.1.01 - Percentage of Care Requests and Adverse Determinations	Monthly	15th of Month	Clinical
4345.1.H1 - Health Plan UM Timeliness - FRC (Detail)	Monthly	15th of Month	Clinical

4345.1.H1 - Health Plan UM Timeliness - FRC (Summary)	Monthly	15th of Month	Clinical
--	---------	------------------	----------

DBH VISION:

Health and well-being for our community.

DBH MISSION:

DBH, in partnership with our diverse community, is dedicated to providing quality, culturally responsive, behavioral health services to promote wellness, recovery, and resiliency for individuals and families in our community.

DBH GOALS:

Quadruple Aim

- Deliver quality care
- Maximize resources while focusing on efficiency
- Provide an excellent care experience
- Promote workforce well-being

GUIDING PRINCIPLES OF CARE DELIVERY:

The DBH 11 principles of care delivery define and guide a system that strives for excellence in the provision of behavioral health services where the values of wellness, resiliency, and recovery are central to the development of programs, services, and workforce. The principles provide the clinical framework that influences decision-making on all aspects of care delivery including program design and implementation, service delivery, training of the workforce, allocation of resources, and measurement of outcomes.

1. Principle One - Timely Access & Integrated Services

- Individuals and families are connected with services in a manner that is streamlined, effective, and seamless
- Collaborative care coordination occurs across agencies, plans for care are integrated, and whole person care considers all life domains such as health, education, employment, housing, and spirituality
- Barriers to access and treatment are identified and addressed
- Excellent customer service ensures individuals and families are transitioned from one point of care to another without disruption of care

2. Principle Two - Strengths-based

- Positive change occurs within the context of genuine trusting relationships
- Individuals, families, and communities are resourceful and resilient in the way they solve problems
- Hope and optimism is created through identification of, and focus on, the unique abilities of individuals and families

3. Principle Three - Person-driven and Family-driven

- Self-determination and self-direction are the foundations for recovery
- Individuals and families optimize their autonomy and independence by leading the process, including the identification of strengths, needs, and preferences
- Providers contribute clinical expertise, provide options, and support individuals and families in informed decision making, developing goals and objectives, and identifying pathways to recovery
- Individuals and families partner with their provider in determining the services and supports that would be most effective and helpful and they exercise choice in the services and supports they receive

4. Principle Four - Inclusive of Natural Supports

- The person served identifies and defines family and other natural supports to be included in care
- Individuals and families speak for themselves
- Natural support systems are vital to successful recovery and the maintaining of ongoing wellness; these supports include personal associations and relationships typically developed in the community that enhance a person's quality of life
- Providers assist individuals and families in developing and utilizing natural supports.

5. Principle Five - Clinical Significance and Evidence Based Practices (EBP)

- Services are effective, resulting in a noticeable change in daily life that is measurable.
- Clinical practice is informed by best available research evidence, best clinical expertise, and values and preferences of those we serve
- Other clinically significant interventions such as innovative, promising, and emerging practices are embraced

6. Principle Six - Culturally Responsive

- Values, traditions, and beliefs specific to an individual's or family's culture(s) are valued and referenced in the path of wellness, resilience, and recovery

- Services are culturally grounded, congruent, and personalized to reflect the unique cultural experience of each individual and family
- Providers exhibit the highest level of cultural humility and sensitivity to the self-identified culture(s) of the person or family served in striving to achieve the greatest competency in care delivery

7. Principle Seven - Trauma-informed and Trauma-responsive

- The widespread impacts of all types of trauma are recognized and the various potential paths for recovery from trauma are understood
- Signs and symptoms of trauma in individuals, families, staff, and others are recognized and persons receive trauma-informed responses
- Physical, psychological and emotional safety for individuals, families, and providers is emphasized

8. Principle Eight - Co-occurring Capable

- Services are reflective of whole-person care; providers understand the influence of bio-psycho-social factors and the interactions between physical health, mental health, and substance use disorders
- Treatment of substance use disorders and mental health disorders are integrated; a provider or team may deliver treatment for mental health and substance use disorders at the same time

9. Principle Nine - Stages of Change, Motivation, and Harm Reduction

- Interventions are motivation-based and adapted to the person's stage of change
- Progression through stages of change are supported through positive working relationships and alliances that are motivating
- Providers support individuals and families to develop strategies aimed at reducing negative outcomes of substance misuse through a harm reduction approach
- Each individual defines their own recovery and recovers at their own pace when provided with sufficient time and support

10. Principle Ten - Continuous Quality Improvement and Outcomes-Driven

- Individual and program outcomes are collected and evaluated for quality and efficacy
- Strategies are implemented to achieve a system of continuous quality improvement and improved performance outcomes

- Providers participate in ongoing professional development activities needed for proficiency in practice and implementation of treatment models

11. Principle Eleven - Health and Wellness Promotion, Illness and Harm Prevention, and Stigma Reduction

- The rights of all people are respected
- Behavioral health is recognized as integral to individual and community well-being
- Promotion of health and wellness is interwoven throughout all aspects of DBH services
- Specific strategies to prevent illness and harm are implemented at the individual, family, program, and community levels
- Stigma is actively reduced by promoting awareness, accountability, and positive change in attitudes, beliefs, practices, and policies within all systems
- The vision of health and well-being for our community is continually addressed through collaborations between providers, individuals, families, and community members

FRESNO COUNTY BEHAVIORAL HEALTH COMPLIANCE PROGRAM

CONTRACTOR CODE OF CONDUCT AND ETHICS

Fresno County is firmly committed to full compliance with all applicable laws, regulations, rules and guidelines that apply to the provision and payment of behavioral health services. Behavioral health contractors and the manner in which they conduct themselves are a vital part of this commitment.

Fresno County has established this Contractor Code of Conduct and Ethics with which contractor, contractor's employees and subcontractors shall comply. Contractor shall require its employees and subcontractors to attend a compliance training that will be provided by Fresno County DBH. After completion of this training, each contractor, contractor's employee and subcontractor must sign the Behavioral Health Compliance Training Acknowledgment and Agreement form and return this form to the Compliance officer or designee.

Contractor and its employees and subcontractor shall:

1. Comply with all applicable laws, regulations, rules or guidelines when providing and billing for behavioral health services.
2. Conduct themselves honestly, fairly, courteously and with a high degree of integrity in their professional dealing related to their contract with the County and avoid any conduct that could reasonably be expected to reflect adversely upon the integrity of the County.
3. Treat County employees, beneficiaries, and other behavioral health contractors fairly and with respect.
4. NOT engage in any activity in violation of the County's Compliance Program, nor engage in any other conduct which violates any applicable law, regulation, rule or guideline
5. Take precautions to ensure that claims are prepared and submitted accurately, timely and are consistent with all applicable laws, regulations, rules or guidelines.
6. Ensure that no false, fraudulent, inaccurate or fictitious claims for payment or reimbursement of any kind are submitted.
7. Bill only for eligible services actually rendered and fully documented. Use billing codes that accurately describe the services provided.
8. Act promptly to investigate and correct problems if errors in claims or billing are discovered.
9. Promptly report to the Compliance Officer any suspected violation(s) of this Code of Conduct and Ethics by County employees or other behavioral health contractors, or report any activity that they believe may violate the standards of the Compliance Program, or any other applicable

law, regulation, rule or guideline. Fresno County prohibits retaliation against any person making a report. Any person engaging in any form of retaliation will be subject to disciplinary or other appropriate action by the County. Contractor may report anonymously.

10. Consult with the Compliance Officer if you have any questions or are uncertain of any Compliance Program standard or any other applicable law, regulation, rule or guideline.
11. Immediately notify the Compliance Officer if they become or may become an Ineligible person and therefore excluded from participation in the Federal Health Care Programs.
12. Immediately contact the DBH Business Office inbox using the DBHADPBusinessOffice@fresnocountyca.gov and your assigned DBH analyst and report any overpayment.

INCIDENT REVIEWER ROLE – User Guide

Fresno County Department of Behavioral Health (DBH) requires all of its county-operated and contracted providers (through the Mental Health Plan (MHP) and Substance Use Disorder (SUD) services) to complete a written report of any incidents compromising the health and safety of clients, employees, or community members.

Yes! Incident reports will now be made through an on online reporting portal hosted by Logic Manager. It's an easier way for any employee to report an incident at any time. A few highlights:

- No supervisor signature is immediately required.
- Additional information can be added to the report by the program supervisor/manager without having to resubmit the incident.
- When an incident is submitted, the assigned contract analyst, program supervisor/manager, clinical supervisor and the DBHIncidentReporting mailbox automatically receives an email notification of a new incident and can log in any time to review the incident. Everything that was on the original paper/electronic form matches the online form.
- Do away with submitting a paper version with a signature.
- This online submission allows for timely action for the health and safety of the persons-served, as well as compliance with state reporting timelines when necessary.

As an Incident Reviewer, your responsibility is to:

- Log in to Logic Manager and review incident submitted within 48 hours of notification of incident.
- Review incident for clarity, missing information and add in additional information deemed appropriate.
- Notify DBHIncidentReporting@fresnocountyca.gov if there is addition information you need to report that you are unable to add in Logic Manager.
- Contact DBHIncidentReporting@fresnocountyca.gov if you have any concerns, questions or comments with Logic Manager or incident reporting.

Below is the link to report incidents

<https://fresnodbh.logicmanager.com/incidents/?t=9&p=1&k=182be0c5cdcd5072bb1864cdee4d3d6e>

The link will take you to reporting screen and you may begin your incident submission:

Similar to the paper version, you can select multiple incident categories.

Actions (0/0)

Incident (check all that apply)*

Medical Emergency | Death of Client |

Homicide/Homicide Attempt

AWOL/Elopement from locked facility

Violence/Abuse/Assault (toward others, client and/or property)

Attempted Suicide (resulting in serious injury)

Injury (self-inflicted or by accident)

Medication Error

← → ↻ 🏠 🔒 fresnodbtlogicmanager.com/incidents/?t=0&p=10k=102be0c5cd0a5072bb1064cdee4d3d6e

Date of Incident*
mm/dd/yyyy

Time of Incident*
:00:00

Location of Incident*
/0000

Key People Directly Involved in Incident (witnesses, staff)*
/0000

Did the injured Party seek Medical Attention?
Select a response

Attach any additional details
Add File or Drop File Here

Reported By Name*
/0000

Reported By Email*
/0000

Reported On
10/30/2019

As another bonus feature, you can either drag files (such as a copy of a UOR, additional statements/document) or click on Add File to upload a file.

← → 🏠 📄 fresnodbh.logicmanager.com/incidents/71-98p-18k-182b80c5cd3d5072bb1ff4cdee4d3dfe

📎 Add File or Drop File Here

Reported By Name*

Reported By Email*

Reported On
10/30/2019

Follow Up

Action Taken (check all that apply)*

Please specify if other

Description of Action Taken*

Outcome*

SUBMIT

Similar to the paper version, you can select multiple Action Taken categories.

Follow Up

Action Taken (check all that apply)*

Law Enforcement Contacted | Called 911/EMS |

Consulted with Physician

First Aid/CPR Administered

Client removed from building

Parent/Legal Guardian Contacted

Other

When you are done entering all information simply click submit.

Any fields that have a red asterisk require information and will prevent you from submitting the form.

Outcome*

SUBMIT

A “Thank you for your submission” statement will pop up if an incident is successfully submitted. You can click “Reload the Form” to submit another incident.

Thank you for your submission!

You will receive a Notification email when a new incident is reported, or a new comment has been made regarding an incident. Click on “Open this incident in Logic Manager” and this will take you to the Logic Manager login screen.

Wed 10/11/2011 9:01 AM
SL SYSTEM LogicManager via customer.support@logicmanager.com <customer.support@logicmanager.com>
Notification -
To: DBH Incident Reporting
(D) If there are problems with how this message is displayed, click here to view it in a web browser.
Click here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

CAUTION!!! - EXTERNAL EMAIL-THINK BEFORE YOU CLICK

0

Right-click here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

H, Mila Arevalo,

You have received a notification through LogicManager, click here to see the details below.

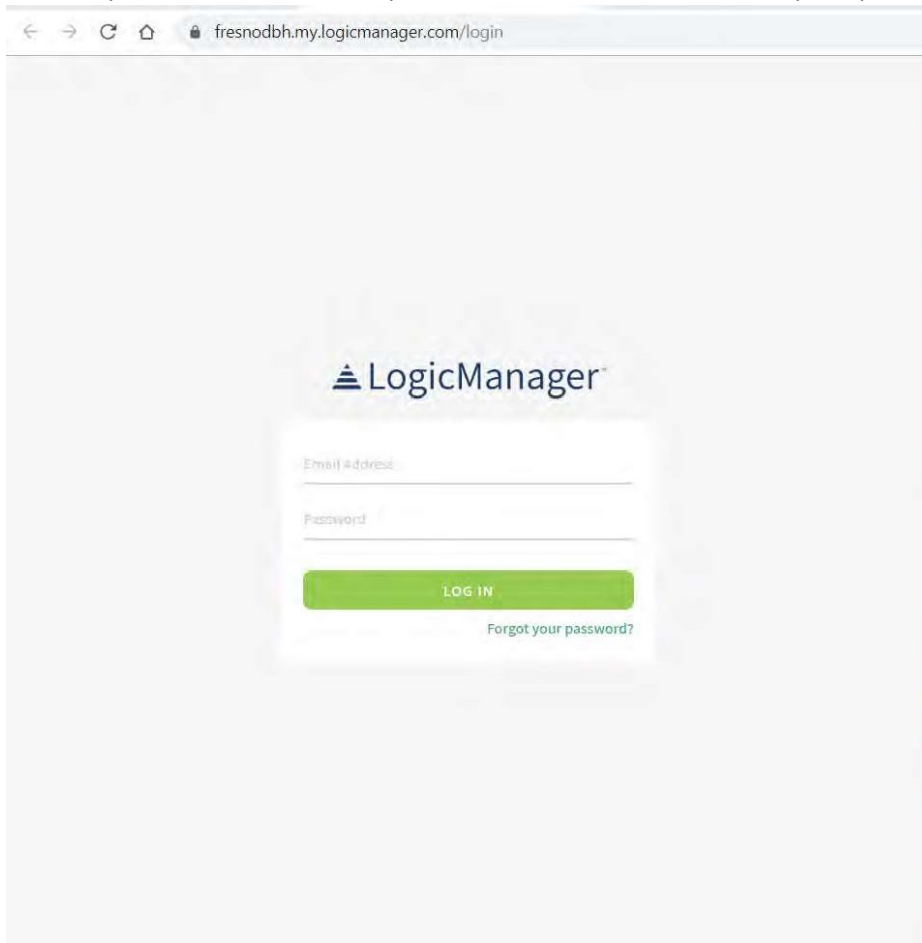
Type: Incident Report
Subject: 102-
Notification To: Mila Arevalo

[Open this incident in LogicManager](#)

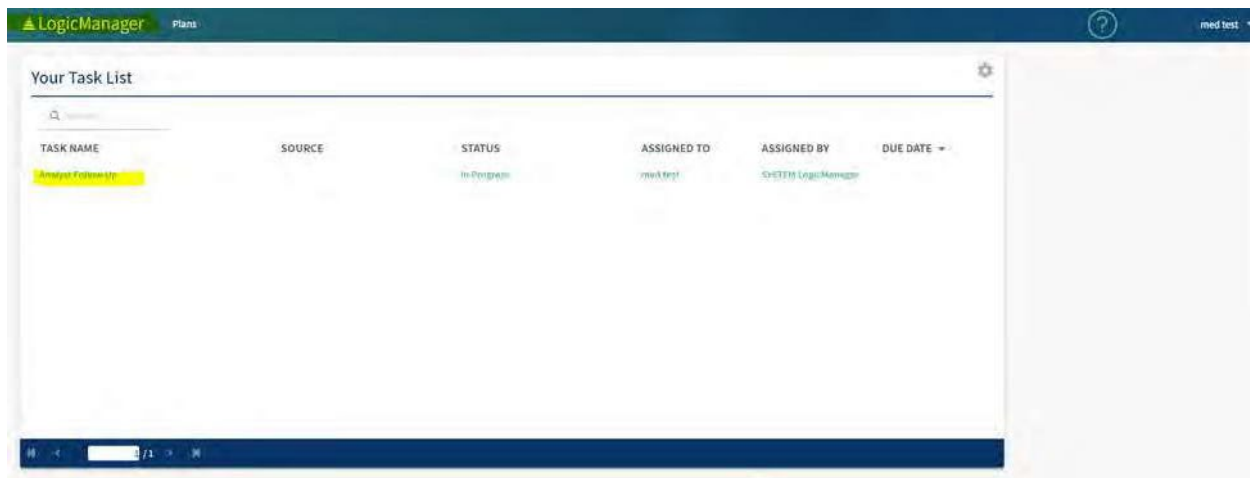
If using Internet Explorer, [click here](#) to open the notification

This email was generated by LogicManager. If you have any technical issues, please email support@logicmanager.com.

Enter in your email address and password. First time users will be prompted to set up a password.



Once you log in, the main screen will show your task (incidents to review). Click on analyst/supervisor follow up to view the incident.



This screen below will then pop up. There are 5 tabs to navigate through. **Client information** will show you the client and facility information. No edits can be made to this section.

Analyst Follow Up

Task Details: **Client Information** Summary Follow Up Dispositions

Name of Facility: AM TEST FACILITY VA

Name of Reporting Party:

Facility Address:

Facility Phone Number:

Mental Health/Substance Use Disorder Program:

Client First Name:

Client Last Name:

Client Middle Initial:

Task ID: 103 Severity: 103 null

CANCEL SAVE SUBMIT

The next tab is **Summary**: This section can be edited. You can add on to the areas below or make corrections to these fields. Be sure to click **SAVE** when you made edits. Then **Cancel** to exit out of the incident.

Analyst Follow Up

Task Details: Client Information **Summary** Follow Up Dispositions

Subject ID:

Incident (check all that apply):
 Death of Client

Other specify (i.e. fire, poisoning, epidemic outbreaks, other catastrophic events that jeopardize the welfare and safety of clients, staff and/or members of the community):

Description of the incident:

Date of Incident: 10/30/2019

Time of Incident:

Location of Incident:

Task ID: 103 Severity: 103 null

CANCEL SAVE SUBMIT

The next tab is **Follow up**: This section can be edited. You can add on to the areas below or make corrections to these fields. Be sure to click **SAVE** when you made edits. Then **Cancel** to Exit out of the incident.

Analyst Follow Up

Task Details Client Information Summary Follow Up Documents

Action Taken (check all that apply)*

Law Enforcement Contacted

Please specify if other

Description of Action Taken*

T

Outcome*

T

added information

source of death :cancer personnel 10-31-14

Task ID: 313 Source: 103; null

« ‹ › »

CANCEL

SAVE

SUBMIT

The next tab is **Documents**: You can view and add attachments to the incident. Be sure to click *SAVE* when adding documents. Then *Cancel* to Exit out of the incident.

Analyst Follow Up

Task Details Client Information Summary Follow Up Documents

Search



Add Document

Name

Type

Source

Upload Date

Uploaded By



No documents yet.
Drop files here or click on the Add Document dropdown.

Task ID: 313 Source: 103; null

« ‹ › »

CANCEL

SAVE

SUBMIT

If all tasks are followed up with and the incident no longer needs further review/information, you will click *SUBMIT*. Once you click Submit the incident will be removed from your task list and no further edits can be made. Notice the *SUBMIT* button is on every tab.

INCIDENT REPORTING

PROTOCOL FOR COMPLETION OF INCIDENT REPORT

The Incident Report must be completed for all incidents involving individuals served through DBH's current incident reporting portal, Logic Manager, at <https://fresnodbh.logicmanager.com/incidents/?t=9&p=1&k=182be0c5cdcd5072bb1864cdee4d3d6e>

- The reporting portal is available 24 hours a day, every day.
- Any employee of the CONTRACTOR can submit an incident using the reporting portal at any time. No login is required.
- The designated administrator of the CONTRACTOR can add information to the follow up section of the report after submission.
- When an employee submits an incident within 24 hours from the time of the incident or first knowledge of the incident, the CONTRACTOR's designated administrator, the assigned contract analyst and the Incident Reporting email inbox will be notified immediately via email from the Logic Manager system that there is a new incident to review.
- Meeting the 24 hour incident reporting requirements will be easier as there are no signatures to collect.
- The user guide attached identifies the reporting process and the reviewer process, and is subject to updates based on DBH's selected incident reporting portal system.
- Employees involved in a crisis incident should be offered appropriate Employee Assistance Program (EAP) or similar related wellness and recovery assistance. In conjunction with the DBH's Guiding Principles of Care Delivery and wellness of the workforce, CONTRACTOR shall align their practices around this vision and ensure needed debriefing services are offered to all employees involved in a crisis incident. Employees shall be afforded all services to strengthen their recovery and wellness related to the crisis incident. Appropriate follow-up with the employee shall be carried out and a plan for workforce wellness shall be submitted to DBH.

Questions about incident reporting, how to use the incident reporting portal, or designating/changing the name of the administrator who will review incidents for the CONTRACTOR should be emailed to DBHIncidentReporting@fresnocountyca.gov and the assigned contract analyst.

Carelon Behavioral Health of California, Inc.

Budget

Prior/Concurrent Authorizations of SUD Residential Services



July 1, 2022 - June 30, 2023

Monthly	Cost
Base Charge*	\$90,788
Prior/Concurrent Authorizations**	\$71.50/authorization

July 1, 2023 - June 30, 2024

Monthly	Cost
Base Charge*	\$93,966
Prior/Concurrent Authorizations**	\$71.50/authorization

July 1, 2024 - June 30, 2025

Monthly	Cost
Base Charge*	\$97,255
Prior/Concurrent Authorizations**	\$71.50/authorization

July 1, 2025 - June 30, 2026

Monthly	Cost
Base Charge*	\$100,659
Prior/Concurrent Authorizations**	\$71.50/authorization

July 1, 2026 - June 30, 2027

Monthly	Cost
Base Charge*	\$104,182
Prior/Concurrent Authorizations**	\$71.50/authorization

Annual maximums not to exceed:

March 1, 2023 - June 30, 2023	\$368,152
July 1, 2023 - June 30, 2024	\$1,139,092
July 1, 2024 - June 30, 2025	\$1,178,560
July 1, 2025 - June 30, 2026	\$1,219,408
July 1, 2026 - June 30, 2027	\$1,261,684
Total Agreement Maximum	\$5,166,896

July 1, 2022 - June 30, 2023

*Includes up to 150 authorizations processed.

**Per authorization processed after initial 150 authorization has been reached.

July 1, 2023 - June 30, 2024

*Includes up to 150 admissions processed.

**Per admission processed after initial 150 authorization has been reached.

July 1, 2024 - June 30, 2025

*Includes up to 150 admissions processed.

**Per admission processed after initial 150 authorization has been reached.

July 1, 2025 - June 30, 2026

*Includes up to 150 admissions processed.

**Per admission processed after initial 150 authorization has been reached.

July 1, 2026 - June 30, 2027

*Includes up to 150 admissions processed.

**Per admission processed after initial 150 authorization has been reached.

Insurance Requirements

1. Required Policies

Without limiting the County's right to obtain indemnification from the Contractor or any third parties, Contractor, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Contractor shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the County is excess only and not contributing with insurance provided under the Contractor's policy.
- (B) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.
- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (D) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.
- (E) **Professional Liability.** Professional liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Three Million Dollars (\$3,000,000). If this is a claims-made policy, then (1) the retroactive date must be prior to the date on which services began under this Agreement; (2) the Contractor shall maintain the policy and provide to the County annual evidence of insurance for not less than five years after completion of services under this Agreement; and (3) if the policy is canceled or not renewed, and not replaced with another claims-made policy with a retroactive date prior to the date on which services begin under this Agreement, then the Contractor shall purchase extended reporting coverage on its claims-made policy for a minimum of five years after completion of services under this Agreement.
- (F) **Molestation Liability.** Sexual abuse / molestation liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence, with an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis.
- (G) **Cyber Liability.** Cyber liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence. Coverage must include claims involving Cyber Risks. The cyber liability policy must be endorsed to cover the full replacement value of damage to,

alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.

Definition of Cyber Risks. “Cyber Risks” include but are not limited to (i) Security Breach, which may include Disclosure of Personal Information to an Unauthorized Third Party; (ii) data breach; (iii) breach of any of the Contractor’s obligations under the “Data Security” clause of this Agreement; (iv) system failure; (v) data recovery; (vi) failure to timely disclose data breach or Security Breach; (vii) failure to comply with privacy policy; (viii) payment card liabilities and costs; (ix) infringement of intellectual property, including but not limited to infringement of copyright, trademark, and trade dress; (x) invasion of privacy, including release of private information; (xi) information theft; (xii) damage to or destruction or alteration of electronic information; (xiii) cyber extortion; (xiv) extortion related to the Contractor’s obligations under this Agreement regarding electronic information, including Personal Information; (xv) fraudulent instruction; (xvi) funds transfer fraud; (xvii) telephone fraud; (xviii) network security; (xix) data breach response costs, including Security Breach response costs; (xx) regulatory fines and penalties related to the Contractor’s obligations under this Agreement regarding electronic information, including Personal Information; and (xxi) credit monitoring expenses.

2. Additional Requirements

(A) **Verification of Coverage.** Within 30 days after the Contractor signs this Agreement, and at any time during the term of this Agreement as requested by the County’s Risk Manager or the County Administrative Office, the Contractor shall deliver, or cause its broker or producer to deliver, to the County Risk Manager, at 2220 Tulare Street, 16th Floor, Fresno, California 93721, or HRRiskManagement@fresnocountyca.gov, and by mail or email to the person identified to receive notices under this Agreement, certificates of insurance and endorsements for all of the coverages required under this Agreement.

- (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force; (2) the County, its officers, agents, employees, and volunteers are not responsible for any premiums on the policy; and (3) the Contractor has waived its right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement and that waiver does not invalidate the insurance policy.
- (ii) The commercial general liability insurance certificate must also state, and include an endorsement, that the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, are additional insureds insofar as the operations under this Agreement are concerned. The commercial general liability insurance certificate must also state that the coverage shall apply as primary insurance and any other insurance, or self-insurance, maintained by the County shall be excess only and not contributing with insurance provided under the Contractor’s policy.

- (iii) The automobile liability insurance certificate must state that the policy covers any auto used in connection with this Agreement.
 - (iv) The professional liability insurance certificate, if it is a claims-made policy, must also state the retroactive date of the policy, which must be prior to the date on which services began under this Agreement.
 - (v) The cyber liability insurance certificate must also state that it is endorsed, and include an endorsement, to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.
- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Contractor shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 30 days in advance of cancellation or change. The County in its sole discretion may determine that the failure of the Contractor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.
- (D) **County's Entitlement to Greater Coverage.** If the Contractor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Contractor shall deliver, or cause its broker or producer to deliver, to the County's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.
- (E) **Waiver of Subrogation.** The Contractor waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Contractor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Contractor's waiver of subrogation under this paragraph is effective whether or not the Contractor obtains such an endorsement.
- (F) **County's Remedy for Contractor's Failure to Maintain.** If the Contractor fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Contractor. The County may offset such

charges against any amounts owed by the County to the Contractor under this Agreement.

(G) **Subcontractors.** The Contractor shall require and verify that all subcontractors used by the Contractor to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Contractor to provide services under this Agreement using subcontractors.

DISCLOSURE – CRIMINAL HISTORY & CIVIL ACTIONS:

In their proposal, the bidder is required to disclose if any of the following conditions apply to them, their owners, officers, corporate managers and partners (hereinafter collectively referred to as “Bidder”):

- Within the three-year period preceding the proposal, they have been convicted of, or had a civil judgment rendered against them for:
 - fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
 - violation of a federal or state antitrust statute;
 - embezzlement, theft, forgery, bribery, falsification, or destruction of records; or
 - false statements or receipt of stolen property
- Within a three-year period preceding their proposal, they have had a public transaction (federal, state, or local) terminated for cause or default.

Disclosure of the above information will not automatically eliminate a Bidder from consideration. The information will be considered as part of the determination of whether to award the contract and any additional information or explanation that a Bidder elects to submit with the disclosed information will be considered. If it is later determined that the Bidder failed to disclose required information, any contract awarded to such Bidder may be immediately voided and terminated for material failure to comply with the terms and conditions of the award.

Any Bidder who is awarded a contract must sign an appropriate Certification Regarding Debarment, Suspension, and Other Responsibility Matters, pages 2 and 3 of this Exhibit. Additionally, the Bidder awarded the contract must immediately advise the County in writing if, during the term of the agreement: (1) Bidder becomes suspended, debarred, excluded or ineligible for participation in federal or state funded programs or from receiving federal funds as listed in the excluded parties list system (<http://sam.gov>); or (2) any of the above listed conditions become applicable to Bidder. The Bidder will indemnify, defend and hold the County harmless for any loss or damage resulting from a conviction, debarment, exclusion, ineligibility or other matter listed in the signed Certification Regarding Debarment, Suspension, and Other Responsibility Matters.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS--PRIMARY COVERED TRANSACTIONS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

CERTIFICATION

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it, its owners, officers, corporate managers and partners:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Signature: _____

(Printed Name & Title)

Date: _____

(Name of Agency or Company)

CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES

CONTRACTOR shall adhere to and develop written procedures in accordance with the below standards adapted from the National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health Care:

Culturally Competent Care:

1. Organizations must ensure that beneficiaries receive from all staff members effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs and practices and preferred language.
2. Organizations must implement strategies to recruit, retain, and promote at all levels of the organization a diverse staff and leadership that are representative of the demographic characteristics of the service area.
3. Organizations must ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery.

Language Access Services:

4. Organizations must offer and provide language assistance services, including bilingual staff and interpreter services, at no cost to beneficiaries with limited English proficiency at all points of contact, in a timely manner during all hours of operation.
5. Organizations must provide to beneficiaries in their preferred language both verbal offers and written notices informing them of their right to receive language assistance services.
6. Organizations must assure the competence of language assistance provided to limited English proficient beneficiaries by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services (except on the request of the beneficiary).
7. Organizations must make available easily understood beneficiary-related materials and post signage in the languages of the commonly encountered groups and/or groups represented in the service area.

Organizational Supports:

8. Organizations must develop, implement, and promote a written strategic plan that outlines clear goals, policies, operational plans, and management accountability/oversight mechanisms to provide culturally and linguistically appropriate services.

9. Organizations must conduct initial and ongoing organizational self-assessments of CLAS related activities and are encouraged to integrate cultural and linguistic competence-related measures into their internal audits, performance improvement programs, beneficiary satisfaction Assessments, and Outcomes-Based Evaluations.
10. Organizations must ensure that data on the individual beneficiary's race, ethnicity, and spoken and written language are collected in program records, integrated into the organizations management information systems, and periodically updated.
11. Organizations must maintain a current demographic, cultural, and epidemiological profile of the community as well as a needs assessment to accurately plan for and implement services that respond to the cultural and linguistic characteristics of the service area.
12. Organizations must develop participatory, collaborative partnerships with communities and utilize a variety of formal and informal mechanisms to facilitate community and beneficiary involvement in designing and implementing CLAS-related activities.
13. Organizations must ensure that conflict and grievance resolution processes are culturally and linguistically sensitive and capable of identifying, preventing, and resolving cross-cultural conflicts or complaints by beneficiaries.
14. Organizations must regularly make available to the public information about their progress and successful innovations in implementing these standards and to provide public notice in their communities about the availability of this information.
15. Organizations must ensure communication regarding the organization's progress in implementing and sustaining CLAS to all stakeholders, constituents, and general public.

CONTRACTOR shall develop written procedures in accordance with the above standards. The provisions of this Agreement are not intended to abrogate any provisions of law or regulation existing or enacted during the term of this Agreement.

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"

The definition above will be utilized for purposes of completing this disclosure form.

INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):			
(5) Authorized Signature			
Signature:		Date:	

DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST STATEMENT

I. Identifying Information

Name of Entity		D/B/A		
Address (number, street)		City	State	ZIP Code
CLIA Number	Taxpayer ID Number (EIN) / Social Security Number	Telephone Number ()		

II. Answer the following questions by checking "Yes" or "No." If any of the questions are answered "Yes," list all names and addresses (primary, every business location, and P.O. Box address) of individuals or corporations under "Remarks" on page 2. Identify each item number to be continued.

- | | | | |
|--|--------------------------|--------------------------|--|
| <p>A. Are there any individuals or organizations having a direct or indirect ownership or control interest of five percent or more in the institution, organizations, or agency that have been convicted of a criminal offense related to the involvement of such persons or organizations in any of the programs established by Titles XVIII, XIX, or XX?</p> | YES | NO | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <p>B. Are there any directors, officers, agents, or managing employees of the institution, agency, or organization who have ever been convicted of a criminal offense related to their involvement in such programs established by Titles XVIII, XIX, or XX?</p> | YES | NO | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <p>C. Are there any individuals currently employed by the institution, agency, or organization in a managerial, accounting, auditing, or similar capacity who were employed by the institution's, organization's, or agency's fiscal intermediary or carrier within the previous 12 months? (Title XVIII providers only).....</p> | YES | NO | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

III. A. List names, addresses for individuals, or the EIN for organizations having direct or indirect ownership or a controlling interest in the entity. (See instructions for definition of ownership and controlling interest.) List any additional names and addresses (primary, every business location, and P.O. Box address) under "Remarks" on page 2. If more than one individual is reported and any of these persons are related to each other, this must be reported under "Remarks."

NAME	DOB	ADDRESS	EIN

- B. Type of entity: Sole proprietorship Partnership Corporation
 Unincorporated Associations Other (specify) _____

C. If the disclosing entity is a corporation, list names, addresses of the directors, and EINs for corporations under "Remarks."

- D. Are any owners of the disclosing entity also owners of other Medicare/Medicaid facilities? (Example: sole proprietor, partnership, or members of Board of Directors) If yes, list names, addresses of individuals, and provider numbers.

NAME	DOB	ADDRESS	PROVIDER

YES NO

IV. A. Has there been a change in ownership or control within the last year?
 If yes, give date. _____

B. Do you anticipate any change of ownership or control within the year?.....
 If yes, when? _____

C. Do you anticipate filing for bankruptcy within the year?.....
 If yes, when? _____

V. Is the facility operated by a management company or leased in whole or part by another organization?.....
 If yes, give date of change in operations. _____

VI. Has there been a change in Administrator, Director of Nursing, or Medical Director within the last year?.....

VII. A. Is this facility chain affiliated?
 (If yes, list name, address of corporation, and EIN.)

Name		EIN	
Address (number, name)	City	State	ZIP code

B. If the answer to question VII.A. is NO, was the facility ever affiliated with a chain?
 (If yes, list name, address of corporation, and EIN.)

Name	EIN		
Address (number, name)	City	State	ZIP code

Whoever knowingly and willfully makes or causes to be made a false statement or representation of this statement, may be prosecuted under applicable federal or state laws. In addition, knowingly and willfully failing to fully and accurately disclose the information requested may result in denial of a request to participate or where the entity already participates, a termination of its agreement or contract with the agency, as appropriate.

Name of authorized representative (typed) _____ Title _____

Signature _____ Date _____

Remarks

INSTRUCTIONS FOR COMPLETING DISCLOSURE OF CONTROL AND INTEREST STATEMENT

Please answer all questions as of the current date. If the yes block for any item is checked, list requested additional information under the Remarks Section on page 2, referencing the item number to be continued. If additional space is needed use an attached sheet.

DETAILED INSTRUCTIONS

These instructions are designed to clarify certain questions on the form. Instructions are listed in question order for easy reference. No instructions have been given for questions considered self-explanatory.

IT IS ESSENTIAL THAT ALL APPLICABLE QUESTIONS BE ANSWERED ACCURATELY AND THAT ALL INFORMATION BE CURRENT.

Item I - Under "Identifying Information" specify in what capacity the entity is doing business as (DBA) (e.g. name of trade or corporation).

Item II - Self-explanatory

Item III - List the names of all individuals and organizations having direct or indirect ownership interests, or controlling interest separately or in combination amounting to an ownership interest of 5 percent or more in the disclosing entity.

Direct ownership interest - is defined as the possession of stock, equity in capital or any interest in the profits of the disclosing entity. A disclosing entity is defined as a Medicare provider or supplier, or other entity that furnishes services or arranges for furnishing services under Medicaid or the Maternal and Child Health program, or health related services under the social services program.

Indirect ownership interest - is defined as ownership interest in an entity that has direct or hospital-based home health agencies, are not indirect ownership interest in the disclosing entity. The amount of indirect ownership in the disclosing entity that is held by any other entity is determined by multiplying the percentage of ownership interest at each level. An indirect ownership interest must be reported in the facility now and the previous be reported if it equates to an ownership interest of 5 percent or more in the disclosing entity. Example: if A owns 10 percent of the stock in a corporation that owns 80 percent of the stock of the disclosing entity, A's interest equates to an 8 percent indirect ownership and must be reported.

Controlling interest - is defined as the operational direction or management of disclosing entity which may be maintained by any or all of the following devices: the ability or authority, expressed or reserved, to amend or change the corporate identity (i.e., joint venture agreement, unincorporated business status) of the disclosing entity; the ability or authority to nominate or name members of the Board of Directors or Trustees of the disclosing entity; the ability or authority, expressed or reserved, to amend or change the by-laws, constitution, or other operating or management direction of the disclosing entity; the right to control any or all of the assets or other property of the disclosing entity upon the sale or dissolution of that entity; the ability or authority, expressed or reserved, to control the sale of any or all of the assets, to encumber such assets by way of mortgage or other indebtedness, to dissolve the entity or to arrange for the sale or transfer of the disclosing entity to new ownership or control.

Item IV-VII - (Changes in Provider Status) For Items IV-VII, if the yes box is checked, list additional information requested under Remarks. Clearly identify which item is being continued.

Change in provider status - is defined as any change in management control. Examples of such changes would include; a change in Medical or Nursing Director, a new Administrator, contracting the operation of the facility to a management corporation, a change in the composition of the owning partnership which under applicable State law is not considered a change in ownership, or the hiring or dismissing of any employees with 5 percent or more financial interest in the facility or in an owning corporation, or any change of ownership.

Item IV - (A & B) If there has been a change in ownership within the last year or if you anticipate a change, indicate the date in the appropriate space.

Item V - If the answer is yes, list name of the management firm and employer identification number (EIN), or the name of the leasing organization. A management company is defined as any organization that operates and manages a business on behalf of the owner of that business, with the owner retaining ultimate legal responsibility for operation of the facility.

Item VI - If the answer is yes, identify which has changed (Administrator, Medical Director, or Director of Nursing) and the date the change was made. Be sure to include name of the new Administrator, Director of Nursing or Medical Director, as appropriate.

Item VII - A chain affiliate is any free-standing health care facility that is either owned, controlled, or operated under lease or contract by an organization consisting of two or more free-standing health care facilities organized within or across State lines which is under the ownership or through any other device, control and direction of a common party. Chain affiliates include such facilities whether public, private, charitable or proprietary. They also include subsidiary organizations and holding corporations. Provider-based facilities, such as hospital-based home health agencies, are not considered to be chain affiliates.

NOTICE OF CHILD ABUSE REPORTING LAW

The undersigned hereby acknowledges that Penal Code section 11166 and the contractual obligations between County of Fresno (COUNTY) and PROVIDER(S) related to provision of alcohol and drug abuse treatment services for Fresno County residents, require that the undersigned report all known or suspected child abuse or neglect to one or more of the agencies set forth in Penal Code (P.C.) section (§) 11165.9.

For purposes of the undersigned’s child abuse reporting requirements, “child abuse or neglect” includes physical injury inflicted by other than accidental means upon a child by another person, sexual abuse as defined in P.C. §11165.1, neglect as defined in P.C. §11165.2, willful cruelty or unjustifiable punishment as defined in P.C. §11165.3, and unlawful corporal punishment or injury as defined in P.C. §11165.4.

A child abuse report shall be made whenever the undersigned, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the undersigned knows or reasonably suspects has been the victim of child abuse or neglect. (P.C §11166.) The child abuse report shall be made to any police department or sheriff’s department (not including a school district police or security department), or to any county welfare department, including Fresno County Department of Children and Family Services’ 24 Hour CARELINE. (See PC §11165.9.)

For purposes of child abuse reporting, a “reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. The pregnancy of a child does not, in and of itself, constitute a basis for reasonable suspicion of sexual abuse. (P.C. §11166(a)(1).)

Substantial penalties may be imposed for failure to comply with these child abuse reporting requirements.

Further information and a copy of the law may be obtained from the department head or designee.

I have read and understand the above statement and agree to comply with the child abuse reporting requirements.

SIGNATURE

DATE

Data Security

1. Definitions

Capitalized terms used in this Exhibit L have the meanings set forth in this section 1.

- (A) **“Authorized Employees”** means the Contractor’s employees who have access to Personal Information.
- (B) **“Authorized Persons”** means: (i) any and all Authorized Employees; and (ii) any and all of the Contractor’s subcontractors, representatives, agents, outsourcers, and consultants, and providers of professional services to the Contractor, who have access to Personal Information and are bound by law or in writing by confidentiality obligations sufficient to protect Personal Information in accordance with the terms of this Exhibit L.
- (C) **“Director”** means the County’s Director of the Department of Behavioral Health or his or her designee.
- (D) **“Disclose”** or any derivative of that word means to disclose, release, transfer, disseminate, or otherwise provide access to or communicate all or any part of any Personal Information orally, in writing, or by electronic or any other means to any person.
- (E) **“Person”** means any natural person, corporation, partnership, limited liability company, firm, or association.
- (F) **“Personal Information”** means any and all information, including any data, provided, or to which access is provided, to the Contractor by or upon the authorization of the County, under this Agreement, including but not limited to vital records, that: (i) identifies, describes, or relates to, or is associated with, or is capable of being used to identify, describe, or relate to, or associate with, a person (including, without limitation, names, physical descriptions, signatures, addresses, telephone numbers, e-mail addresses, education, financial matters, employment history, and other unique identifiers, as well as statements made by or attributable to the person); (ii) is used or is capable of being used to authenticate a person (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or personal identification numbers (PINs), financial account numbers, credit report information, answers to security questions, and other personal identifiers); or (iii) is personal information within the meaning of California Civil Code section 1798.3, subdivision (a), or 1798.80, subdivision (e). Personal Information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.
- (G) **“Privacy Practices Complaint”** means a complaint received by the County relating to the Contractor’s (or any Authorized Person’s) privacy practices, or alleging a Security Breach. Such complaint shall have sufficient detail to enable the Contractor to promptly investigate and take remedial action under this Exhibit L.
- (H) **“Security Safeguards”** means physical, technical, administrative or organizational security procedures and practices put in place by the Contractor (or any Authorized Persons) that relate to the protection of the security, confidentiality, value, or integrity of Personal Information. Security Safeguards shall satisfy the minimal requirements set forth in section 3(C) of this Exhibit L.

Data Security

- (I) **“Security Breach”** means (i) any act or omission that compromises either the security, confidentiality, value, or integrity of any Personal Information or the Security Safeguards, or (ii) any unauthorized Use, Disclosure, or modification of, or any loss or destruction of, or any corruption of or damage to, any Personal Information.
- (J) **“Use”** or any derivative of that word means to receive, acquire, collect, apply, manipulate, employ, process, transmit, disseminate, access, store, disclose, or dispose of Personal Information.

2. Standard of Care

- (A) The Contractor acknowledges that, in the course of its engagement by the County under this Agreement, the Contractor, or any Authorized Persons, may Use Personal Information only as permitted in this Agreement.
- (B) The Contractor acknowledges that Personal Information is deemed to be confidential information of, or owned by, the County (or persons from whom the County receives or has received Personal Information) and is not confidential information of, or owned or by, the Contractor, or any Authorized Persons. The Contractor further acknowledges that all right, title, and interest in or to the Personal Information remains in the County (or persons from whom the County receives or has received Personal Information) regardless of the Contractor’s, or any Authorized Person’s, Use of that Personal Information.
- (C) The Contractor agrees and covenants in favor of the Country that the Contractor shall:
 - (i) keep and maintain all Personal Information in strict confidence, using such degree of care under this section 2 as is reasonable and appropriate to avoid a Security Breach;
 - (ii) Use Personal Information exclusively for the purposes for which the Personal Information is made accessible to the Contractor pursuant to the terms of this Exhibit L;
 - (iii) not Use, Disclose, sell, rent, license, or otherwise make available Personal Information for the Contractor’s own purposes or for the benefit of anyone other than the County, without the County’s express prior written consent, which the County may give or withhold in its sole and absolute discretion; and
 - (iv) not, directly or indirectly, Disclose Personal Information to any person (an “Unauthorized Third Party”) other than Authorized Persons pursuant to this Agreement, without the Director’s express prior written consent.
- (D) Notwithstanding the foregoing paragraph, in any case in which the Contractor believes it, or any Authorized Person, is required to disclose Personal Information to government regulatory authorities, or pursuant to a legal proceeding, or otherwise as may be required by applicable law, Contractor shall (i) immediately notify the County of the specific demand for, and legal authority for the disclosure, including providing County with a copy of any notice, discovery demand, subpoena, or order, as applicable, received by the Contractor, or any Authorized Person, from any government regulatory authorities, or in relation to any legal proceeding, and (ii) promptly notify the County

Data Security

before such Personal Information is offered by the Contractor for such disclosure so that the County may have sufficient time to obtain a court order or take any other action the County may deem necessary to protect the Personal Information from such disclosure, and the Contractor shall cooperate with the County to minimize the scope of such disclosure of such Personal Information.

- (E) The Contractor shall remain liable to the County for the actions and omissions of any Unauthorized Third Party concerning its Use of such Personal Information as if they were the Contractor's own actions and omissions.

3. Information Security

- (A) The Contractor covenants, represents and warrants to the County that the Contractor's Use of Personal Information under this Agreement does and will at all times comply with all applicable federal, state, and local, privacy and data protection laws, as well as all other applicable regulations and directives, including but not limited to California Civil Code, Division 3, Part 4, Title 1.81 (beginning with section 1798.80), and the Song-Beverly Credit Card Act of 1971 (California Civil Code, Division 3, Part 4, Title 1.3, beginning with section 1747). If the Contractor Uses credit, debit or other payment cardholder information, the Contractor shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing and maintaining all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at the Contractor's sole cost and expense.
- (B) The Contractor covenants, represents and warrants to the County that, as of the effective date of this Agreement, the Contractor has not received notice of any violation of any privacy or data protection laws, as well as any other applicable regulations or directives, and is not the subject of any pending legal action or investigation by, any government regulatory authority regarding same.
- (C) Without limiting the Contractor's obligations under section 3(A) of this Exhibit L, the Contractor's (or Authorized Person's) Security Safeguards shall be no less rigorous than accepted industry practices and, at a minimum, include the following:
 - (i) limiting Use of Personal Information strictly to the Contractor's and Authorized Persons' technical and administrative personnel who are necessary for the Contractor's, or Authorized Persons', Use of the Personal Information pursuant to this Agreement;
 - (ii) ensuring that all of the Contractor's connectivity to County computing systems will only be through the County's security gateways and firewalls, and only through security procedures approved upon the express prior written consent of the Director;
 - (iii) to the extent that they contain or provide access to Personal Information, (a) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, operating systems, and software applications, including, but not limited to, all mobile devices and other equipment, operating systems, and software applications with information storage capability; (b)

Data Security

employing adequate controls and data security measures, both internally and externally, to protect (1) the Personal Information from potential loss or misappropriation, or unauthorized Use, and (2) the County's operations from disruption and abuse; (c) having and maintaining network, device application, database and platform security; (d) maintaining authentication and access controls within media, computing equipment, operating systems, and software applications; and (e) installing and maintaining in all mobile, wireless, or handheld devices a secure internet connection, having continuously updated anti-virus software protection and a remote wipe feature always enabled, all of which is subject to express prior written consent of the Director;

- (iv) encrypting all Personal Information at advance encryption standards of Advanced Encryption Standards (AES) of 128 bit or higher (a) stored on any mobile devices, including but not limited to hard disks, portable storage devices, or remote installation, or (b) transmitted over public or wireless networks (the encrypted Personal Information must be subject to password or pass phrase, and be stored on a secure server and transferred by means of a Virtual Private Network (VPN) connection, or another type of secure connection, all of which is subject to express prior written consent of the Director);
 - (v) strictly segregating Personal Information from all other information of the Contractor, including any Authorized Person, or anyone with whom the Contractor or any Authorized Person deals so that Personal Information is not commingled with any other types of information;
 - (vi) having a patch management process including installation of all operating system and software vendor security patches;
 - (vii) maintaining appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks of Authorized Employees consistent with applicable law; and
 - (viii) providing appropriate privacy and information security training to Authorized Employees.
- (D) During the term of each Authorized Employee's employment by the Contractor, the Contractor shall cause such Authorized Employees to abide strictly by the Contractor's obligations under this Exhibit L. The Contractor shall maintain a disciplinary process to address any unauthorized Use of Personal Information by any Authorized Employees.
- (E) The Contractor shall, in a secure manner, backup daily, or more frequently if it is the Contractor's practice to do so more frequently, Personal Information received from the County, and the County shall have immediate, real time access, at all times, to such backups via a secure, remote access connection provided by the Contractor, through the Internet.
- (F) The Contractor shall provide the County with the name and contact information for each Authorized Employee (including such Authorized Employee's work shift, and at least one alternate Authorized Employee for each Authorized Employee during such work shift) who shall serve as the County's primary security contact with the Contractor and shall be

Data Security

available to assist the County twenty-four (24) hours per day, seven (7) days per week as a contact in resolving the Contractor's and any Authorized Persons' obligations associated with a Security Breach or a Privacy Practices Complaint.

- (G) The Contractor shall not knowingly include or authorize any Trojan Horse, back door, time bomb, drop dead device, worm, virus, or other code of any kind that may disable, erase, display any unauthorized message within, or otherwise impair any County computing system, with or without the intent to cause harm.

4. Security Breach Procedures

- (A) Immediately upon the Contractor's awareness or reasonable belief of a Security Breach, the Contractor shall (i) notify the Director of the Security Breach, such notice to be given first by telephone at the following telephone number **(559) 600-9058**, followed promptly by email at the following email address: sholt@fresnocountca.gov (which telephone number and email address the County may update by providing notice to the Contractor), and (ii) preserve all relevant evidence (and cause any affected Authorized Person to preserve all relevant evidence) relating to the Security Breach. The notification shall include, to the extent reasonably possible, the identification of each type and the extent of Personal Information that has been, or is reasonably believed to have been, breached, including but not limited to, compromised, or subjected to unauthorized Use, Disclosure, or modification, or any loss or destruction, corruption, or damage.
- (B) Immediately following the Contractor's notification to the County of a Security Breach, as provided pursuant to section 4(A) of this Exhibit L, the Parties shall coordinate with each other to investigate the Security Breach. The Contractor agrees to fully cooperate with the County, including, without limitation:
- (i) assisting the County in conducting any investigation;
 - (ii) providing the County with physical access to the facilities and operations affected;
 - (iii) facilitating interviews with Authorized Persons and any of the Contractor's other employees knowledgeable of the matter; and
 - (iv) making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, industry standards, or as otherwise reasonably required by the County.

To that end, the Contractor shall, with respect to a Security Breach, be solely responsible, at its cost, for all notifications required by law and regulation, or deemed reasonably necessary by the County, and the Contractor shall provide a written report of the investigation and reporting required to the Director within 30 days after the Contractor's discovery of the Security Breach.

- (C) County shall promptly notify the Contractor of the Director's knowledge, or reasonable belief, of any Privacy Practices Complaint, and upon the Contractor's receipt of that notification, the Contractor shall promptly address such Privacy Practices Complaint, including taking any corrective action under this Exhibit L, all at the Contractor's sole expense, in accordance with applicable privacy rights, laws, regulations and standards.

Data Security

In the event the Contractor discovers a Security Breach, the Contractor shall treat the Privacy Practices Complaint as a Security Breach. Within 24 hours of the Contractor's receipt of notification of such Privacy Practices Complaint, the Contractor shall notify the County whether the matter is a Security Breach, or otherwise has been corrected and the manner of correction, or determined not to require corrective action and the reason for that determination.

- (D) The Contractor shall take prompt corrective action to respond to and remedy any Security Breach and take mitigating actions, including but not limiting to, preventing any reoccurrence of the Security Breach and correcting any deficiency in Security Safeguards as a result of such incident, all at the Contractor's sole expense, in accordance with applicable privacy rights, laws, regulations and standards. The Contractor shall reimburse the County for all reasonable costs incurred by the County in responding to, and mitigating damages caused by, any Security Breach, including all costs of the County incurred relation to any litigation or other action described section 4(E) of this Exhibit L.
- (E) The Contractor agrees to cooperate, at its sole expense, with the County in any litigation or other action to protect the County's rights relating to Personal Information, including the rights of persons from whom the County receives Personal Information.

5. Oversight of Security Compliance

- (A) The Contractor shall have and maintain a written information security policy that specifies Security Safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities.
- (B) Upon the County's written request, to confirm the Contractor's compliance with this Exhibit L, as well as any applicable laws, regulations and industry standards, the Contractor grants the County or, upon the County's election, a third party on the County's behalf, permission to perform an assessment, audit, examination or review of all controls in the Contractor's physical and technical environment in relation to all Personal Information that is Used by the Contractor pursuant to this Agreement. The Contractor shall fully cooperate with such assessment, audit or examination, as applicable, by providing the County or the third party on the County's behalf, access to all Authorized Employees and other knowledgeable personnel, physical premises, documentation, infrastructure and application software that is Used by the Contractor for Personal Information pursuant to this Agreement. In addition, the Contractor shall provide the County with the results of any audit by or on behalf of the Contractor that assesses the effectiveness of the Contractor's information security program as relevant to the security and confidentiality of Personal Information Used by the Contractor or Authorized Persons during the course of this Agreement under this Exhibit L.
- (C) The Contractor shall ensure that all Authorized Persons who Use Personal Information agree to the same restrictions and conditions in this Exhibit L. that apply to the Contractor with respect to such Personal Information by incorporating the relevant provisions of these provisions into a valid and binding written agreement between the Contractor and such Authorized Persons, or amending any written agreements to provide same.

Data Security

6. Return or Destruction of Personal Information. Upon the termination of this Agreement, the Contractor shall, and shall instruct all Authorized Persons to, promptly return to the County all Personal Information, whether in written, electronic or other form or media, in its possession or the possession of such Authorized Persons, in a machine readable form used by the County at the time of such return, or upon the express prior written consent of the Director, securely destroy all such Personal Information, and certify in writing to the County that such Personal Information have been returned to the County or disposed of securely, as applicable. If the Contractor is authorized to dispose of any such Personal Information, as provided in this Exhibit L, such certification shall state the date, time, and manner (including standard) of disposal and by whom, specifying the title of the individual. The Contractor shall comply with all reasonable directions provided by the Director with respect to the return or disposal of Personal Information and copies of Personal Information. If return or disposal of such Personal Information or copies of Personal Information is not feasible, the Contractor shall notify the County according, specifying the reason, and continue to extend the protections of this Exhibit L to all such Personal Information and copies of Personal Information. The Contractor shall not retain any copy of any Personal Information after returning or disposing of Personal Information as required by this section 6. The Contractor's obligations under this section 6 survive the termination of this Agreement and apply to all Personal Information that the Contractor retains if return or disposal is not feasible and to all Personal Information that the Contractor may later discover.

7. Equitable Relief. The Contractor acknowledges that any breach of its covenants or obligations set forth in this Exhibit L may cause the County irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the County is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the County may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available to the County at law or in equity or under this Agreement.

8. Indemnity. The Contractor shall defend, indemnify and hold harmless the County, its officers, employees, and agents, (each, a "**County Indemnitee**") from and against any and all infringement of intellectual property including, but not limited to infringement of copyright, trademark, and trade dress, invasion of privacy, information theft, and extortion, unauthorized Use, Disclosure, or modification of, or any loss or destruction of, or any corruption of or damage to, Personal Information, Security Breach response and remedy costs, credit monitoring expenses, forfeitures, losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, fines and penalties (including regulatory fines and penalties), costs or expenses of whatever kind, including attorneys' fees and costs, the cost of enforcing any right to indemnification or defense under this Exhibit L and the cost of pursuing any insurance providers, arising out of or resulting from any third party claim or action against any County Indemnitee in relation to the Contractor's, its officers, employees, or agents, or any Authorized Employee's or Authorized Person's, performance or failure to perform under this Exhibit L or arising out of or resulting from the Contractor's failure to comply with any of its obligations under this section 8. The provisions of this section 8 do not apply to the acts or omissions of the County. The provisions of this section 8 are cumulative to any other obligation of the Contractor to, defend, indemnify, or hold harmless any County Indemnitee under this Agreement. The provisions of this section 8 shall survive the termination of this Agreement.

Data Security

9. Survival. The respective rights and obligations of the Contractor and the County as stated in this Exhibit L shall survive the termination of this Agreement.

10. No Third Party Beneficiary. Nothing express or implied in the provisions of in this Exhibit L is intended to confer, nor shall anything in this Exhibit L confer, upon any person other than the County or the Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

11. No County Warranty. The County does not make any warranty or representation whether any Personal Information in the Contractor's (or any Authorized Person's) possession or control, or Use by the Contractor (or any Authorized Person), pursuant to the terms of this Agreement is or will be secure from unauthorized Use, or a Security Breach or Privacy Practices Complaint.

Health Insurance Portability and Accountability Act (HIPAA)

1. The County is a “Covered Entity,” and the Contractor is a “Business Associate,” as these terms are defined by 45 CFR 160.103. In connection with providing services under the Agreement, the parties anticipate that the Contractor will create and/or receive Protected Health Information (“PHI”) from or on behalf of the County. The parties enter into this Business Associate Agreement (BAA) to comply with the Business Associate requirements of HIPAA, to govern the use and disclosures of PHI under this Agreement. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.

The parties to this Agreement shall be in strict conformance with all applicable federal and State of California laws and regulations, including, but not limited to California Welfare and Institutions Code sections 5328, 10850, and 14100.2 *et seq.*; 42 CFR 2; 42 CFR 431; California Civil Code section 56 *et seq.*; the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”), including, but not limited to, 45 CFR Parts 160, 45 CFR 162, and 45 CFR 164; the Health Information Technology for Economic and Clinical Health Act (“HITECH”) regarding the confidentiality and security of patient information, including, but not limited to 42 USC 17901 *et seq.*; and the Genetic Information Nondiscrimination Act (“GINA”) of 2008 regarding the confidentiality of genetic information.

Except as otherwise provided in this Agreement, the Contractor, as a Business Associate of the County, may use or disclose Protected Health Information (“PHI”) to perform functions, activities or services for or on behalf of the County, as specified in this Agreement, provided that such use or disclosure shall not violate HIPAA Rules. The uses and disclosures of PHI may not be more expansive than those applicable to the County, as the “Covered Entity” under the HIPAA Rules, except as authorized for management, administrative or legal responsibilities of the Contractor.

2. The Contractor, including its subcontractors and employees, shall protect from unauthorized access, use, or disclosure of names and other identifying information, including genetic information, concerning persons receiving services pursuant to this Agreement, except where permitted in order to carry out data aggregation purposes for health care operations [45

CFR §§ 164.504(e)(2)(i), 164.504(e)(2)(ii)(A), and 164.504(e)(4)(i)]. This pertains to any and all persons receiving services pursuant to a County-funded program. This requirement applies to electronic PHI. The Contractor shall not use such identifying information or genetic information for any purpose other than carrying out the Contractor's obligations under this Agreement.

3. The Contractor, including its subcontractors and employees, shall not disclose any such identifying information or genetic information to any person or entity, except as otherwise specifically permitted by this Agreement, authorized by Subpart E of 45 CFR Part 164 or other law, required by the Secretary of the United States Department of Health and Human Services ("Secretary"), or authorized by the client/patient in writing. In using or disclosing PHI that is permitted by this Agreement or authorized by law, the Contractor shall make reasonable efforts to limit PHI to the minimum necessary to accomplish intended purpose of use, disclosure or request.

4. For purposes of the above sections, identifying information shall include, but not be limited to, name, identifying number, symbol, or other identifying particulars assigned to the individual, such as fingerprint or voiceprint, or photograph.

5. For purposes of the above sections, genetic information shall include genetic tests of family members of an individual or individual(s), manifestation of disease or disorder of family members of an individual, or any request for or receipt of genetic services by individual or family members. Family member means a dependent or any person who is first, second, third, or fourth degree relative.

6. The Contractor shall provide access, at the request of the County, and in the time and manner designated by the County, to PHI in a designated record set (as defined in 45 CFR § 164.501), to an individual or to County in order to meet the requirements of 45 CFR § 164.524 regarding access by individuals to their PHI. With respect to individual requests, access shall be provided within thirty (30) days from request. Access may be extended if the Contractor cannot provide access and provides the individual with the reasons for the delay and the date when access may be granted. PHI shall be provided in the form and format requested by the individual or the County.

The Contractor shall make any amendment(s) to PHI in a designated record set at the

request of the County or individual, and in the time and manner designated by the County in accordance with 45 CFR § 164.526.

The Contractor shall provide to the County or to an individual, in a time and manner designated by the County, information collected in accordance with 45 CFR § 164.528, to permit the County to respond to a request by the individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.

7. The Contractor shall report to the County, in writing, any knowledge or reasonable belief that there has been unauthorized access, viewing, use, disclosure, security incident, or breach of unsecured PHI not permitted by this Agreement of which the Contractor becomes aware, immediately and without reasonable delay and in no case later than two (2) business days of discovery. Immediate notification shall be made to the County's Information Security Officer and Privacy Officer and the County's Department of Public Health ("DPH") HIPAA Representative, within two (2) business days of discovery. The notification shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, used, disclosed, or breached. The Contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable federal and State laws and regulations. The Contractor shall investigate such breach and is responsible for all notifications required by law and regulation or deemed necessary by the County and shall provide a written report of the investigation and reporting required to the County's Information Security Officer and Privacy Officer and the County's DPH HIPAA Representative.

This written investigation and description of any reporting necessary shall be postmarked within the thirty (30) working days of the discovery of the breach to the addresses below:

County of Fresno
Department of Public Health
HIPAA Representative
(559) 600-6439
P.O. Box 11867
Fresno, California 93775

County of Fresno
Department of Public Health
Privacy Officer
(559) 600-6405
P.O. Box 11867
Fresno, California 93775

County of Fresno
Department of Internal
Services
Information Security Officer
(559) 600-5800
333 E. Pontiac Way
Clovis, California 93612

8. The Contractor shall make its internal practices, books, and records relating to the use and disclosure of PHI received from the County, or created or received by the Contractor on behalf of the County, in compliance with HIPAA's Privacy Rule, including, but not limited to the requirements set forth in Title 45, CFR, Sections 160 and 164. The Contractor shall make its internal practices, books, and records relating to the use and disclosure of PHI received from the County, or created or received by the Contractor on behalf of the County, available to the Secretary upon demand.

The Contractor shall cooperate with the compliance and investigation reviews conducted by the Secretary. PHI access to the Secretary must be provided during the Contractor's normal business hours; however, upon exigent circumstances access at any time must be granted. Upon the Secretary's compliance or investigation review, if PHI is unavailable to the Contractor and in possession of a subcontractor of the Contractor, the Contractor must certify to the Secretary its efforts to obtain the information from the subcontractor.

9. **Safeguards**

The Contractor shall implement administrative, physical, and technical safeguards as required by the HIPAA Security Rule, Subpart C of 45 CFR Part 164, that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI, including electronic PHI, that it creates, receives, maintains or transmits on behalf of the County and to prevent unauthorized access, viewing, use, disclosure, or breach of PHI other than as provided for by this Agreement. The Contractor shall conduct an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity and availability of electronic PHI. The Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities. Upon the County's request, the Contractor shall provide the County with information concerning such safeguards.

The Contractor shall implement strong access controls and other security safeguards and precautions in order to restrict logical and physical access to confidential, personal (e.g.,

PHI) or sensitive data to authorized users only. Said safeguards and precautions shall include the following administrative and technical password controls for all systems used to process or store confidential, personal, or sensitive data:

A. Passwords must **not** be:

- (1) Shared or written down where they are accessible or recognizable by anyone else; such as taped to computer screens, stored under keyboards, or visible in a work area;
- (2) A dictionary word; or
- (3) Stored in clear text

B. Passwords must be:

- (1) Eight (8) characters or more in length;
- (2) Changed every ninety (90) days;
- (3) Changed immediately if revealed or compromised; and
- (4) Composed of characters from at least three (3) of the following four (4) groups from the standard keyboard:
 - a) Upper case letters (A-Z);
 - b) Lowercase letters (a-z);
 - c) Arabic numerals (0 through 9); and
 - d) Non-alphanumeric characters (punctuation symbols).

The Contractor shall implement the following security controls on each workstation or portable computing device (e.g., laptop computer) containing confidential, personal, or sensitive data:

1. Network-based firewall and/or personal firewall;
2. Continuously updated anti-virus software; and
3. Patch management process including installation of all operating system/software vendor security patches.

The Contractor shall utilize a commercial encryption solution that has received FIPS 140-2 validation to encrypt all confidential, personal, or sensitive data stored on portable

electronic media (including, but not limited to, compact disks and thumb drives) and on portable computing devices (including, but not limited to, laptop and notebook computers).

The Contractor shall not transmit confidential, personal, or sensitive data via e-mail or other internet transport protocol unless the data is encrypted by a solution that has been validated by the National Institute of Standards and Technology (NIST) as conforming to the Advanced Encryption Standard (AES) Algorithm. The Contractor must apply appropriate sanctions against its employees who fail to comply with these safeguards. The Contractor must adopt procedures for terminating access to PHI when employment of employee ends.

10. Mitigation of Harmful Effects

The Contractor shall mitigate, to the extent practicable, any harmful effect that is suspected or known to the Contractor of an unauthorized access, viewing, use, disclosure, or breach of PHI by the Contractor or its subcontractors in violation of the requirements of these provisions. The Contractor must document suspected or known harmful effects and the outcome.

11. The Contractor's Subcontractors

The Contractor shall ensure that any of its contractors, including subcontractors, if applicable, to whom the Contractor provides PHI received from or created or received by the Contractor on behalf of the County, agree to the same restrictions, safeguards, and conditions that apply to the Contractor with respect to such PHI and to incorporate, when applicable, the relevant provisions of these provisions into each subcontract or sub-award to such agents or subcontractors.

Nothing in this section 11 or this Exhibit J authorizes the Contractor to perform services under this Agreement using subcontractors.

12. Employee Training and Discipline

The Contractor shall train and use reasonable measures to ensure compliance with the requirements of these provisions by employees who assist in the performance of functions or activities on behalf of the County under this Agreement and use or disclose PHI, and discipline such employees who intentionally violate any provisions of these provisions, which may include

termination of employment.

13. Termination for Cause

Upon the County's knowledge of a material breach of these provisions by the Contractor, the County will either:

A. Provide an opportunity for the Contractor to cure the breach or end the violation, and the County may terminate this Agreement if the Contractor does not cure the breach or end the violation within the time specified by the County; or

B. Immediately terminate this Agreement if the Contractor has breached a material term of this Exhibit J and cure is not possible, as determined by the County.

C. If neither cure nor termination is feasible, the County's Privacy Officer will report the violation to the Secretary of the U.S. Department of Health and Human Services.

14. Judicial or Administrative Proceedings

The County may terminate this Agreement if: (1) the Contractor is found guilty in a criminal proceeding for a violation of the HIPAA Privacy or Security Laws or the HITECH Act; or (2) there is a finding or stipulation in an administrative or civil proceeding in which the Contractor is a party that the Contractor has violated a privacy or security standard or requirement of the HITECH Act, HIPAA or other security or privacy laws.

15. Effect of Termination

Upon termination or expiration of this Agreement for any reason, the Contractor shall return or destroy all PHI received from the County (or created or received by the Contractor on behalf of the County) that the Contractor still maintains in any form, and shall retain no copies of such PHI. If return or destruction of PHI is not feasible, the Contractor shall continue to extend the protections of these provisions to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision applies to PHI that is in the possession of subcontractors or agents, if applicable, of the Contractor. If the Contractor destroys the PHI data, a certification of date and time of destruction shall be provided to the County by the Contractor.

16. Compliance with Other Laws

To the extent that other state and/or federal laws provide additional, stricter and/or more protective privacy and/or security protections to PHI or other confidential information covered under this BAA, the Contractor agrees to comply with the more protective of the privacy and security standards set forth in the applicable state or federal laws to the extent such standards provide a greater degree of protection and security than HIPAA Rules or are otherwise more favorable to the individual.

17. Disclaimer

The County makes no warranty or representation that compliance by the Contractor with these provisions, the HITECH Act, or the HIPAA Rules, will be adequate or satisfactory for the Contractor's own purposes or that any information in the Contractor's possession or control, or transmitted or received by the Contractor, is or will be secure from unauthorized access, viewing, use, disclosure, or breach. The Contractor is solely responsible for all decisions made by the Contractor regarding the safeguarding of PHI.

18. Amendment

The parties acknowledge that Federal and State laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Exhibit J may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to amend this agreement in order to implement the standards and requirements of the HIPAA Rules, the HITECH Act and other applicable laws relating to the security or privacy of PHI. The County may terminate this Agreement upon thirty (30) days written notice in the event that the Contractor does not enter into an amendment providing assurances regarding the safeguarding of PHI that the County in its sole discretion, deems sufficient to satisfy the standards and requirements of the HIPAA Rules, and the HITECH Act.

19. No Third-Party Beneficiaries

Nothing expressed or implied in the provisions of this Exhibit J is intended to confer, and nothing in this Exhibit J does confer, upon any person other than the County or the Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities

whatsoever.

20. Interpretation

The provisions of this Exhibit J shall be interpreted as broadly as necessary to implement and comply with the HIPAA Rules, and applicable State laws. The parties agree that any ambiguity in the terms and conditions of these provisions shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules.

21. Regulatory References

A reference in the terms and conditions of these provisions to a section in the HIPAA Rules means the section as in effect or as amended.

22. Survival

The respective rights and obligations of the Contractor as stated in this Exhibit J survive the termination or expiration of this Agreement.

23. No Waiver of Obligation

Change, waiver or discharge by the County of any liability or obligation of the Contractor under this Exhibit J on any one or more occasions is not a waiver of performance of any continuing or other obligation of the Contractor and does not prohibit enforcement by the County of any obligation on any other occasion.