

**AMENDMENT I TO AGREEMENT**

THIS AMENDMENT I (hereinafter "Amendment") is dated April 11, 2023, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, Fresno, California (hereinafter "COUNTY"), and each Contractor listed in Exhibit A-I, "Non-DMC Residential Room and Board and Withdrawal Management Services Vendor List," attached hereto and by this reference incorporated herein (hereinafter collectively referred to as "CONTRACTOR"), and such additional CONTRACTORS as may, from time to time during the term of this Agreement, be added by COUNTY. Reference in this Agreement to "party" or "parties" shall be understood to refer to COUNTY and each CONTRACTOR, unless otherwise specified.

**WITNESSETH:**

WHEREAS, COUNTY and CONTRACTOR entered into Agreement number 22-179, effective July 1, 2022 (hereinafter collectively referred to as "Agreement") wherein CONTRACTOR(S) agreed to provide certified Substance Use Disorder (SUD) residential treatment services, pursuant to the terms and conditions of this Agreement; and

WHEREAS, the California Department of Health Care Services (DHCS) has issued new State-mandated requirements; and

WHEREAS, COUNTY and CONTRACTOR now desire to amend the Agreement, regarding changes as stated below.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, COUNTY and CONTRACTOR agree as follows:

1. That Section Two (2) of the Agreement, beginning on Page Three (3), Line Sixteen (16) through Line Twenty-Five (25), is deleted in its entirety and replaced with the following:

**"2. ADDITIONS/DELETIONS OF CONTRACTOR(S)**

The COUNTY reserves the right at any time during the term of this Agreement to add new CONTRACTOR(S) to those listed in Revised Exhibit A, "Non-DMC Residential Room and Board and Withdrawal Management Services Vendor List." It is understood that any such additions will not affect compensation paid to the other CONTRACTOR(S), and therefore such additions may be made with COUNTY without notice to or approval from other CONTRACTOR(S) under this Agreement.

1 These same provisions shall apply to the deletion of any CONTRACTOR listed in Revised Exhibit A,  
2 "Non-DMC Residential Room and Board and Withdrawal Management Services Vendor List," except  
3 that deletions shall be made by written mutual agreement between the COUNTY and the particular  
4 CONTRACTOR to be deleted or shall be in accordance with the provisions of Section Four (4),  
5 TERMINATION, of this Agreement."

6 2. That Section Six (6) of the Agreement, beginning on Page Eight (8), Line Twenty-Seven  
7 (27) with the word "A." and ending on Page Nine (9), Line Three (3) with the word "DBH" be deleted in  
8 its entirety and replaced with the following:

9 "A. In addition to billing, CONTRACTOR(s) shall submit on a monthly basis by the  
10 twenty-fifth (25th), an Operational Expense Report, per modality of service, along with a general  
11 ledger, payroll register and supporting documentation for any line items selected. For the purposes of  
12 verifying that costs are allowable and equitable, CONTRACTOR shall submit any additional  
13 documentation as deemed necessary by DBH.

14 CONTRACTOR shall use the accrual method of accounting in preparation of all  
15 financial documents, forms, and reports. Accounting must be in accordance with Generally Accepted  
16 Accounting Principles."

17 3. That Section Eight (8) of the Agreement, beginning on Page Nine (9), Lines Twenty-Six  
18 (26) through Page Ten (10), Line Eight (9), is deleted in its entirety and replaced with the following:

19 "8. **PROHIBITION ON PUBLICITY**

20 None of the funds, materials, property or services provided directly or indirectly under  
21 this Agreement shall be used for CONTRACTOR's advertising, fundraising, or publicity (i.e.,  
22 purchasing of tickets/tables, silent auction donations, etc.) for the purpose of self-promotion.  
23 Notwithstanding the above, publicity of the services described in Section One (1), SERVICES, of this  
24 Agreement shall be allowed as necessary to raise public awareness about the availability of such  
25 specific services when approved in advance by the DBH Director, or his or her designee, and at a cost  
26 to be provided for such items as written/printed materials, the use of media (i.e., radio, television,  
27 newspapers) and any other related expense(s). Communication products must follow DBH graphic  
28 standards, including typefaces and colors, to communicate our authority and project a unified brand.

1 This includes all media types and channels and all materials on and offline that are created as part of  
2 DBH's efforts to provide information to the public.

3 CONTRACTOR shall notify COUNTY of any community event of which CONTRACTOR  
4 is the primary organizer at least thirty (30) days in advance of said event. CONTRACTOR shall  
5 disclose and supply COUNTY with all written/printed/digital materials and media used in the marketing  
6 and operation of this event. CONTRACTOR shall provide all materials to COUNTY at least two weeks  
7 prior to the date of the event. COUNTY reserved the right to review and approve all CONTRACTOR  
8 submitted materials.”

9 4. That Section Sixteen (16) of the Agreement, beginning on Page Sixteen (16), Line  
10 Thirteen (13) through Page Eighteen (18), Line Twenty-Five (25), is deleted in its entirety and replaced  
11 with the following:

12 **“16. INSURANCE**

13 CONTRACTOR shall comply with all the insurance requirements in Exhibit P to this  
14 Agreement. Exhibit P is attached and incorporated by this reference.”

15 5. That Section Seventeen (17), beginning on Page Eighteen (18), Line Twenty-Six (26)  
16 through Page Nineteen (19), Line Ten (10), is deleted in its entirety and replaced with the following:

17 **“17. HOLD HARMLESS**

18 The Contractor shall indemnify and hold harmless and defend the County (including its  
19 officers, agents, employees, and volunteers) against all claims, demands, injuries, damages, costs,  
20 expenses (including attorney fees and costs), fines, penalties, and liabilities of any kind to the County,  
21 the Contractor, or any third party that arise from or relate to the performance or failure to perform by  
22 the Contractor (or any of its officers, agents, subcontractors, or employees) under this Agreement. The  
23 County may conduct or participate in its own defense without affecting the Contractor's obligation to  
24 indemnify and hold harmless or defend the County. This clause survives the termination of this  
25 Agreement.”

26 6. That Section Twenty (20) of the Agreement, beginning on Page Twenty-Two (22), Line  
27 Two (2) with the word “COUNTY” and ending on Line Eight (8) with the word “immediately” be deleted  
28 in its entirety and replaced with the following:

1           “COUNTY shall recapture from CONTRACTOR the value of any services or other  
2 expenditures determined to be ineligible based on the COUNTY or State monitoring results. The  
3 COUNTY reserves the right to enter into a repayment agreement with CONTRACTOR, with total  
4 monthly payments not to exceed twelve (12) months from the date of the repayment agreement, to  
5 recover the amount of funds to be recouped. The COUNTY has the discretion to extend the repayment  
6 plan up to a total of twenty- four (24) months from the date of the repayment agreement. The  
7 repayment agreement may be made with the signed written approval of COUNTY’s DBH Director, or  
8 his or her designee, and respective CONTRACTOR through a repayment agreement. The monthly  
9 repayment amounts may be netted against the CONTRACTOR’s monthly billing for services rendered  
10 during the month, or the COUNTY may, in its sole discretion, forego a repayment agreement and  
11 recoup all funds immediately. This remedy is not exclusive, and COUNTY may seek recoupment from any  
12 other means, including, but not limited to, a separate contract or agreement with CONTRACTOR.”

13           7.       That Section Twenty-Five (25) of the Agreement, beginning on Page Twenty-Eight (28),  
14 Line Eleven (11) and ending on Page Twenty-Nine (29), Line Twenty-Six (26) be deleted in its entirety  
15 and replaced with the following:

16           “**26.    DATA SECURITY**

17           CONTRACTOR shall comply with all the data security requirements in Exhibit Q to this  
18 Agreement. Exhibit Q is attached and incorporated by this reference.”

19           8.       That all references in the Agreement to “Exhibit A” shall be deemed references to  
20 “Exhibit A-I”, attached and incorporated herein by this reference.

21           9.       That all references in the Agreement to “Exhibit B” shall be deemed references to  
22 “Exhibit B-I”, attached and incorporated by this reference.

23           10.      That all references in the Agreement to “Exhibit C” shall be deemed references to  
24 “Exhibit C-I”, attached and incorporated by this reference.

25           11.      The parties agree that this Amendment may be executed by electronic signature as  
26 provided in this section. An “electronic signature” means any symbol or process intended by an  
27 individual signing this Amendment to represent their signature, including but not limited to (1) a digital  
28 signature; (2) a faxed version of an original handwritten signature; or (3) an electronically scanned and

1 transmitted (for example by PDF document) of a handwritten signature. Each electronic signature  
2 affixed or attached to this Amendment (1) is deemed equivalent to a valid original handwritten  
3 signature of the person signing this Amendment for all purposes, including but not limited to  
4 evidentiary proof in any administrative or judicial proceeding, and (2) has the same force and effect as  
5 the valid original handwritten signature of that person. The provisions of this section satisfy the  
6 requirements of Civil Code section 1633.5, subdivision (b), in the Uniform Electronic Transaction Act  
7 (Civil Code, Division 3, Part 2, Title 2.5, beginning with section 1633.1). Each party using a digital  
8 signature represents that it has undertaken and satisfied the requirements of Government Code  
9 section 16.5, subdivision (a), paragraphs (1) through (5), and agrees that each other party may rely  
10 upon that representation. This Amendment is not conditioned upon the parties conducting the  
11 transactions under it by electronic means and either party may sign this Amendment with an original  
12 handwritten signature.

13       12. COUNTY and CONTRACTOR agree that this Amendment is sufficient to amend the  
14 Agreement and, that upon execution of this Amendment, the Agreement and this Amendment together  
15 shall be considered the Agreement.

16       13. The Agreement, as hereby amended, is ratified and continued. All provisions, terms,  
17 covenants, conditions and promises contained in the Agreement and not amended herein shall remain  
18 in full force and effect.

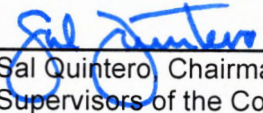
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1 IN WITNESS WHEREOF, the parties hereto have executed this Amendment I as of the day and  
2 year first hereinabove written.

3 **CONTRACTOR**

**COUNTY OF FRESNO**

4  
5  
6 SEE FOLLOWING SIGNATURE PAGES

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8  
9  
10   
11 \_\_\_\_\_  
12 Sal Quintero, Chairman of the Board of  
13 Supervisors of the County of Fresno

14  
15  
16 **ATTEST:**  
17 Bernice E. Seidel  
18 Clerk of the Board of Supervisors  
19 County of Fresno, State of California


20  
21  
22 By:   
23 \_\_\_\_\_  
24 Deputy

25  
26  
27 FOR ACCOUNTING USE ONLY:

28  
Fund: 0001  
Subclass: 10000  
ORG: 56302081  
Account: 7295/0

1 The parties are signing this Amendment I to Agreement No. 22-179 on the date stated in the  
2 introductory clause.

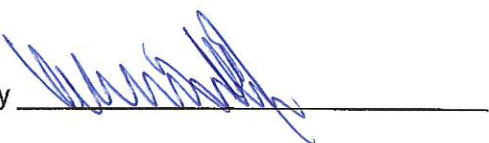
3 Provider: **BAKERSFIELD RECOVERY SERVICE, INC.**

4  
5 By 

6  
7 Print Name: Stephanie Carroll

8  
9 Title: Interim Executive Director  
Chairman of the Board, President, or Vice President

10  
11 Date: 3/8/2023

12  
13  
14 By 

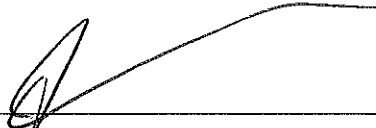
15  
16 Print Name: THOMAS L. PASEK

17  
18 Title: PRESIDENT  
Secretary (of Corporation), Assistant Secretary,  
19 Chief Financial Officer, or Assistant Treasurer

20  
21 Date: 3-8-23

1 The parties are signing this Amendment I to Agreement No. 22-179 on the date stated in the  
2 introductory clause.

3 Provider: **COMPREHENSIVE ADDICTION PROGRAMS, INC.**

4  
5  
6 By 

7 Print Name: Joshua Richel

8  
9 Title: President  
10 Chairman of the Board, President, or Vice President

11 Date: 3/16/23

12  
13  
14 By 

15 Print Name: Jeff Ward

16  
17 Title: Secretary/Treasurer  
18 Secretary (of Corporation), Assistant Secretary,  
19 Chief Financial Officer, or Assistant Treasurer


20 Date: 3/16/23



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The parties are signing this Amendment I to Agreement No. 22-179 on the date stated in the introductory clause.

Provider: **FRESNO COUNTY HISPANIC COMMISSION ON ALCOHOL AND DRUG ABUSE SERVICES, INC.**

By   
Print Name: ALFREDO C. VASQUEZ

Title: CHAIR  
Chairman of the Board, President, or Vice President

Date: 3/11/23

By   
Print Name: Domingo Zapata

Title: Executive Director  
Secretary (of Corporation), Assistant Secretary,  
Chief Financial Officer, or Assistant Treasurer

Date: 3/13/23

1 The parties are signing this Amendment I to Agreement No. 22-179 on the date stated in the  
2 introductory clause.


3 Provider: **MENTAL HEALTH SYSTEMS, INC.**  
4 **dba TURN Behavioral Health Services**

5 James C Callaghan Jr  
6 By James C Callaghan Jr (Mar 19, 2023 07:38 PDT)

7 Print Name: James C Callaghan Jr

8  
9 Title: CEO  
10 Chairman of the Board, President, or Vice President

11 Date: Mar 19, 2023

12  
13  
14 By   
Tracey McDermott (Mar 20, 2023 12:57 PDT)

15 Print Name: tracey mcdermott

16  
17 Title: CFO  
18 Secretary (of Corporation), Assistant Secretary,  
19 Chief Financial Officer, or Assistant Treasurer

20 Date: Mar 20, 2023

1 The parties are signing this Amendment I to Agreement No. 22-179 on the date stated in the  
2 introductory clause.

3 Provider: **TURNING POINT OF CENTRAL CALIFORNIA, INC.**

4  
5  
6 By *Raymond Banks*

7 Print Name: Ray Banks

8  
9 Title: CEO  
10 Chairman of the Board, President, or Vice President

11 Date: 3/21/2023

12  
13  
14 By *Will Goodall*

15  
16 Print Name: Will Goodall

17 Title: CFO  
18 Secretary (of Corporation), Assistant Secretary,  
19 Chief Financial Officer, or Assistant Treasurer

20 Date: 3/21/2023

1 The parties are signing this Amendment I to Agreement No. 22-179 on the date stated in the  
2 introductory clause.

3 Provider: WESTCARE CALIFORNIA, INC.

4  
5 By Shawn L. Jenkins

6  
7 Print Name: Shawn Jenkins

8  
9 Title: COO  
10 Chairman of the Board, President, or Vice President

11 Date: 03/17/2023

12 Attesting to the authority of the COO  
13 to execute pursuant to Resolution  
14 WECA 2023-02

14 By Jim Hanna  
15 we care

16 Print Name: Jim Hanna

17 Title: Corporate Secretary  
18 Secretary (of Corporation), Assistant Secretary,  
19 Chief Financial Officer, or Assistant Treasurer

20 Date: 03/10/2023

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Fresno County Department of Behavioral Health  
 Provider Maximum Annual Allocation

Exhibit A-I

**Non-DMC Residential Room and Board Vendor List**

VENDOR	CONTACT	PHONE NUMBER	TYPE OF BUSINESS	Contract Max FY 2022-23	Contract Max FY 2023-24	Contract Max FY 2024-25	Contract Max FY 2025-26	Contract Max FY 2026-27
Bakersfield Recovery Services Inc. (Jason's Retreat) Remit to: PO Box 3218 Bakersfield, CA 93385	Executive Director Eric Sanders	(661) 325-1817	501(c)3 Non-Profit Corporation	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
Comprehensive Addiction Programs Inc. Remit to: 2445 W. Whitesbridge Ave. Fresno, Ca 93706	Executive Director	(559) 492-1373	501(c)3 Non-Profit Corporation	\$623,548	\$623,548	\$623,548	\$623,548	\$623,548
Fresno County Hispanic Commission on Alcohol and Drug Abuse Services, Inc. Remit to: 1414 W Kearney Blvd Fresno, Ca 93706	Executive Director Domingo Zapata	(559) 268-6480	501(c)3 Non-Profit Corporation	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000
Mental Health Systems, Inc. Remit to: 9465 Farnham St. San Diego, CA 92123	CEO James Callaghan CFO Joelle Verbestel	(858) 573-2600	501(c)3 Non-profit Corporation	\$1,445,000	\$1,445,000	\$1,445,000	\$1,445,000	\$1,445,000
Turning Point of Central California, Inc. Remit to: P.O. Box 7447 Visalia, Ca 93290	Chief Executive Officer	(559) 732-8086	501(c)3 Non-profit Corporation	\$550,000	\$550,000	\$550,000	\$550,000	\$550,000
WestCare California, Inc. Remit to: 1900 N. Gateway Blvd, 100 Fresno, CA 93727	Chief Operating Officer Shawn A. Jenkins	(559) 251-4800	501(c)3 Non-profit Corporation	\$2,150,000	\$2,150,000	\$2,150,000	\$2,150,000	\$2,150,000

**Non-DMC Withdrawal Management Room and Board Vendor List**

VENDOR	CONTACT	PHONE NUMBER	TYPE OF BUSINESS	Contract Max FY 2022-23	Contract Max FY 2023-24	Contract Max FY 2024-25	Contract Max FY 2025-26	Contract Max FY 2026-27
Bakersfield Recovery Services (Jason's Retreat) Remit to: PO Box 3218 Bakersfield, CA 93385	Executive Director Eric Sanders	(661) 325-1817	501(c)3 Non-Profit Corporation	See Above	See Above	See Above	See Above	See Above
Comprehensive Addiction Programs Inc. Remit to: 2445 W. Whitesbridge Ave. Fresno, Ca 93706	Executive Director	(559) 492-1373	501(c)3 Non-profit Corporation	See Above	See Above	See Above	See Above	See Above
Mental Health Systems, Inc. Remit to: 9465 Farnham St. San Diego, CA 92123	CEO James Callaghan CFO Joelle Verbestel	(858) 573-2600	501(c)3 Non-profit Corporation	See Above	See Above	See Above	See Above	See Above
WestCare California, Inc. Remit to: 1900 N. Gateway Blvd, 100 Fresno, CA 93727	Chief Operating Officer Shawn A. Jenkins	(559) 251-4800	501(c)3 Non-profit Corporation	See Above	See Above	See Above	See Above	See Above
				\$5,073,548	\$5,073,548	\$5,073,548	\$5,073,548	\$5,073,548

\*\* A list of current provider sites can be found at:

<https://www.co.fresno.ca.us/departments/behavioral-health/substance-use-disorder-services>



**Fresno County, Department of Behavioral Health  
Drug Medi-Cal Organized Delivery System  
Modality of Service Descriptions**

Covered services under the Drug Medi-Cal Organized Delivery System (DMC-ODS) shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to persons served under fee-for-service Medicaid, as set forth in 42 CFR 440.230. Contractors shall ensure that the services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are furnished. Contractors may not arbitrarily deny or reduce the amount duration, or scope of a required service solely because of diagnosis, type of illness, or condition of the person served.

Contractors are required to ensure services are provided timely as further described in the Fresno County Substance Use Disorder Provider Manual.

**In all levels of care, contractors are required to either offer medications for addiction treatment (MAT) directly or demonstrate effective referral mechanisms in place to the most clinically appropriate MAT services. Providing a person served the contact information for a MAT program is insufficient.**

Placement in an appropriate level of care must be determined through an assessment based on the American Society of Addiction Medicine (ASAM) criteria and prescribed by the contractor's medical director.

**DRUG MEDI-CAL SERVICES:**

**EARLY INTERVENTION SERVICES (ASAM LEVEL 0.5)**

Early intervention services (EIS) are available to persons served under 21 who are screened and determined to be at risk of developing an SUD. At risk persons served may receive any service component covered under the outpatient level of care (ASAM 1.0) as early intervention services. An SUD diagnosis is not required for early intervention services.

A full assessment utilizing the ASAM criteria is not required for a person served under the age of 21 to receive EIS. An abbreviated ASAM screening tool may be used. If the person served under 21 meets diagnostic criteria for SUD, a full ASAM assessment shall be performed and the person served shall receive a referral to the appropriate level of care indicated by the assessment.

EIS services may be delivered in a wide variety of settings and can be provided in person, by telehealth, or by telephone.

EIS services do not limit or modify the Early Periodic Screening, Diagnostic and Treatment (EPSDT) mandate.

### **OUTPATIENT SERVICES (ASAM LEVEL 1.0)**

Outpatient services consist of up to nine (9) hours per week of medically necessary services for adults and up to six (6) hours per week of services for adolescents. Services may exceed the maximum hours based on individual medical necessity.

Services can be provided by an LPHA or registered/certified counselor in-person, by telephone, or telehealth in any appropriate setting in the community, in accordance with HIPAA and 42 CFR Part 2. Group size is limited to no less than two (2) and no more than twelve (12) persons served. Outpatient services may be provided in person, by telehealth or by telephone.

Outpatient services include the following service components:

- Assessment
- Care Coordination
- Counseling (individual/group)
- Family Therapy
- Medication Services
- MAT for opioid use disorders
- MAT for alcohol use disorders and non-opioid SUDs
- Patient Education
- Recovery Services
- SUD Crisis Intervention Services

### **INTENSIVE OUTPATIENT SERVICES (ASAM LEVEL 2.1)**

Intensive outpatient involves structured programming provided to persons served as medically necessary for a minimum of nine (9) hours and a maximum of nineteen (19) hours for adults and a minimum of six (6) hours and a maximum of nineteen (19) for adolescents. Providers may exceed maximum treatment hours when determined to be medically necessary.

Intensive outpatient treatment services include the same service components listed under Outpatient 1.0.

Services can be provided by an LPHA or registered/certified counselor in-person, by telephone, or telehealth in any appropriate setting in the community, in accordance with HIPAA and 42 CFR Part 2. Group size is limited to no less than two (2) and no more than twelve (12) persons served.

### **OPIOID (NARCOTIC) TREATMENT PROGRAMS (ASAM LEVEL 1.0)**

Narcotic treatment program services shall be provided in accordance with Title 9, Division 4, Chapter 4 and CFR 42.

Narcotic Treatment Programs (NTP), also known as Opioid Treatment Programs (OTP), are outpatient programs that provide Food and Drug Administration (FDA)-approved medications and biological products to treat SUDs when ordered by a physician as medically necessary.

NTPs are required to administer, dispense, or prescribe medications to persons served covered under the DMC-ODS formulary including methadone, buprenorphine (transmucosal and long-acting injectable), naltrexone (oral and long-acting injectable), disulfiram, and naloxone. NTPs may also prescribe the medication for dispensing at a pharmacy. The medical evaluation for methadone treatment must be conducted in-person.

Persons served in OTP/NTP settings shall be offered no less than fifty (50) minutes of counseling services per calendar month although additional services may be provided based on medical necessity. Counseling services provided in the NTP modality can be provided in person, by telehealth or by telephone.

NTP services include the following service components:

- Assessment
- Care Coordination
- Counseling (individual/group)
- Family Therapy
- Medical Psychotherapy
- Medication Services
- MAT for opioid use disorders
- MAT for alcohol use disorders and non-opioid SUDs
- Patient Education
- Recovery Services
- SUD Crisis Intervention Services

**PERINATAL/NON-PERINATAL RESIDENTIAL SUBSTANCE USE DISORDER TREATMENT SERVICES (EXCLUDING ROOM AND BOARD) (ASAM LEVELS 3.1, 3.3 and 3.5)**

Residential treatment services are delivered to persons served when medically necessary in a short-term residential program corresponding to at least one of the following levels:

- Level 3.1 - Clinically Managed Low-Intensity residential Services.
- Level 3.3 - Clinically Managed Population-Specific High Intensity Residential Services.
- Level 3.5 - Clinically Managed High Intensity Residential Services.

Residential treatment services are provided in facilities licensed by the California Department of Health Care Services (DHCS) or the California Department of Social Services for adolescents that also have DMC certification and a DHCS Level of Care Designation or an ASAM LOC Certification demonstrating ability to delivery care consistent with ASAM treatment criteria. Residential providers are required to maintain a ASAM LOC certification for each level of care provided by the facility.

The Contactor must provide 24-hour care with trained personnel, including awake staff on the overnight shift to address persons served needs.

The length of stay in a short-term residential setting shall be determined by individualized clinical need. The statewide goal for the average length of stay for residential treatment services

is 30 days. Services must include preparation for a step down to a less intensive level of care, when clinically appropriate. Adolescent beneficiaries receiving residential treatment shall be stabilized as soon as possible and moved down to a less intensive level of treatment. Nothing in the DMC-ODS or in this paragraph overrides any EPSDT requirements.

Residential contractor(s) must seek prior authorization for residential treatment services upon admission and prior to the expiration of each authorized treatment period. Treatment authorization request processes can be found in the Fresno County SUD Provider Manual.

Residential services include the following service components:

- Assessment
- Care Coordination
- Counseling (individual/group)
- Family Therapy
- Medication Services
- MAT for opioid use disorders
- MAT for alcohol use disorders and non-opioid SUDs
- Patient Education
- Recovery Services
- SUD Crisis Intervention Services

All residential treatment services may be provided in person, by telehealth, or telephone. Telehealth and telephone services, when provided, shall supplement, not replace, the in-person services and the in-person treatment milieu; most services in a residential facility must be in-person.

### **WITHDRAWAL MANAGEMENT (Level 1-WM, Level 2-WM and Level 3.2-WM)**

Withdrawal management services are provided to persons served experiencing withdrawal in the following outpatient, residential, or inpatient settings:

- Level 1 -WM: Ambulatory withdrawal management without extended on-site monitoring (Mild withdrawal with daily or less than daily outpatient supervision).
- Level 2-WM: Ambulatory withdrawal management with extended on-site monitoring (Moderate withdrawal with daytime withdrawal management and support and supervision in a non-residential setting).
- Level 3.2-WM: Clinically managed residential withdrawal management (24-hour support for moderate withdrawal symptoms that are not manageable in outpatient setting).
- Level 3.7-WM: Medically Managed Inpatient Withdrawal Management (24-hour care for severe withdrawal symptoms requiring 24-hour nursing care and physician visits).
- Level 4-WM: Medically managed intensive inpatient withdrawal management (Severe, unstable withdrawal requiring 24-hour nursing care and daily physician visits to modify withdrawal management regimen and manage medical instability).

Withdrawal management (WM) services are prescribed based the ASAM criteria. Contractor(s) shall ensure persons served receiving both residential and outpatient WM services are monitored

during the detoxification process. Withdrawal Management Services may be provided in an outpatient or residential setting.

Withdrawal management services are urgent and provided on a short-term basis. When provided as part of withdrawal management services, service activities such as the assessment shall focus on the stabilization and management of psychological and physiological symptoms associated with withdrawal, engagement in care and effective transitions to a level of care where comprehensive treatment services are provided.

A full ASAM assessment shall not be required as a condition of admission to a withdrawal management program.

ASAM 3.7-WM and 4-WM services are part of the DMC-ODS continuum of care but are offered through the Medi-Cal Managed Care Plans, Anthem Blue Cross and CalViva Health. If a person served is determined to be in need of this level of care, the provider should provide care coordination to the Managed Care Plans for treatment.

Withdrawal Management services include the following service components:

- Assessment
- Care Coordination
- Medication Services
- MAT for opioid use disorders
- MAT for alcohol use disorders and non-opioid SUDs
- Observation
- Recovery Services

### **MEDICATION ASSISTED TREATMENT (MAT)**

Medication for addiction treatment includes all FDA-approved medications and biological products to treat Alcohol Use Disorders (AUD), Opioid Use Disorders (OUD) and any SUD. MAT may be provided in clinical or non-clinical settings and can be delivered as a standalone service or as a service delivered as part of another level of care.

Additional MAT involves the ordering, prescribing, administering, and monitoring of medications for substance use disorders.

All DMC-ODS providers, at all levels of care, must demonstrate that they either directly offer or have an effective referral mechanism/process to MAT for persons served with SUD diagnoses. Providers shall monitor the referral process or the provision of MAT services.

Persons served needing or utilizing MAT shall be served and cannot be denied treatment services or be required to decrease dosage or be tapered off medications as a condition of entering or remaining in the program. Persons served who decline counseling services shall not be denied access to MAT or administratively discharged.

MAT services may be provided in conjunction with the following service components:

- Assessment
- Care Coordination
- Counseling (individual/group)
- Family Therapy
- Medication Services
- Prescribing, administering, dispensing, ordering, monitoring and/or managing the medications for MAT for opioid use disorders, alcohol use disorders and non-opioid SUDs
- Patient Education
- Recovery Services
- SUD Crisis Intervention Services
- Withdrawal Management Services

### **CONTINGENCY MANAGEMENT (RECOVERY INCENTIVES)**

Contingency Management (CM) is an evidence-based behavioral treatment that provides motivational incentive to reduce the use of stimulants. CM is the only treatment that has demonstrated robust outcomes for persons served with stimulant use disorder, including reduction or cessation of drug use and longer retention in treatment.

CM is a structured 24-week program, followed by six or more months of additional recovery support services. Persons served will be able to earn motivational incentives in the form of low-denomination gift cards, with a total retail value determined per treatment episode.

In the Fall of 2022, CM will be piloted in select DMC-ODS counties, including Fresno County, as an optional DMC benefit. CM will initially be available through DMC certified outpatient providers that opted into participation during the pilot. Following the conclusion of the CM pilot on March 31, 2024, opting in will become available to all outpatient programs so long as DHCS adds CM as a permanent Medi-Cal benefit.

### **CARE COORDINATION SERVICE (formerly Case Management)**

Care Coordination services are defined as a service that assists persons served to access needed medical, educational, social, prevocational, vocational, rehabilitative, or other community services.

Care coordination consists of activities to provide coordination of SUD care, mental health care, and medical care, and to support the person served with linkages to services and supports designed to restore the person served to their best possible functional level.

Care Coordination services are provided to a person served in conjunction with all levels of treatment and may also be claimed as a standalone service.

Care Coordination services may be provided by an LPHA, certified counselor or registered counselor. Contractors shall use care coordination services to coordinate with physical and/or mental health systems of care.

Care coordination can be provided in clinical or nonclinical settings (including the community) and can be provided face-to-face, by telehealth, or by telephone.

Care Coordination shall include one or more of the following components:

- Coordination with medical and mental health providers to monitor and support comorbid health conditions.
- Discharge planning, including coordinating with SUD treatment providers to support transitions between levels of care and to recovery resources, referrals to mental health providers, and referrals to primary or specialty medical providers.
- Coordinating with ancillary services, including individualized connection, referral, and linkages to community-based services and supports including but not limited to educational, social, prevocational, vocational, housing, nutritional, criminal justice, transportation, childcare, child development, family/marriage education, cultural sources, and mutual aid support groups.

Care Coordination shall be consistent with and shall not violate confidentiality of persons served as set forth in 42 CFR Part 2, and California law.

### **PEER SUPPORT SERVICES (Available following completion of Fresno County opt-in)**

Peer support services promote recovery, resiliency, engagement, socialization, self-sufficiency, self-advocacy, development of natural supports, and identification of strengths through structured activities such as group and individual coaching to set recovery goals and identify steps to reach the goals.

Peer support services may be provided with the person served or significant support person(s) and may be provided in a clinical or non-clinical setting. Peer support services can include contact with family members or other people (collaterals) supporting the person served if the purpose of the collateral's participation is to focus on the treatment needs of the person served.

Peer support services are delivered and claimed as a standalone service. Peer support services can be provided in conjunction with other services or levels of care, including inpatient and residential services, but shall be billed separately. There may be times when, based on clinical judgment, the person served is not present during the delivery of the service, but remains the focus of the service.

Peer Support Services are based on a plan of care that includes specific individualized goals and is approved by a Behavioral Health Specialist or a Peer Support Supervisor.

Peer support services consist of Education Skill Building Groups, Engagement services and Therapeutic Activity services.

Peer Support Specialists are individuals in recovery with a current State-approved Medi-Cal Peer Support Specialist Certification Program certification and working under the direction of a Behavioral Health Professional. Behavioral Health Professionals must be licensed, waived, or

registered in accordance with applicable State of California licensure requirements and listed in the California Medicaid State Plan as a qualified DMC provider.

## **RECOVERY SERVICES**

Recovery Services are designed to support recovery and prevent relapse with the objective of restoring the person served to their best possible functional level.

Recovery services can be utilized when the person served is triggered, when the person served has relapsed or simply as a measure to prevent relapse.

Persons served do not need to be diagnosed as being in remission to access Recovery Services. Persons served may receive Recovery Services while receiving MAT services, including NTP services. Persons served may receive Recovery Services immediately after incarceration with a prior diagnosis of SUD. Services may be provided in person, by telehealth, or by telephone. Recovery Services can be delivered and claimed as a standalone service, concurrently with the other levels of care or as a service delivered as part of other levels of care.

Contractors that do not opt to make recovery services available must refer persons served to a contractor that provides recovery services.

Recovery Services shall include the following service components:

- Assessment
- Care Coordination
- Counseling (individual and group)
- Family Therapy
- Recovery Monitoring, which includes recovery coaching and monitoring designed for the maximum reduction of the person served's SUD
- Relapse Prevention which includes interventions designed to teach persons served with SUD how to anticipate and cope with the potential for relapse for the maximum reduction of the person served's SUD.

## **CLINICIAN CONSULTATION (formerly Physician Consultation)**

Clinician Consultation consists of LPHAs consulting with LPHAs, such as addiction medicine physicians, addiction psychiatrists, licensed clinicians, or clinical pharmacists, to support the provision of care.

Clinician Consultation is not a direct service provided to persons served. Clinician Consultation is designed to support licensed clinicians with complex cases and may address medication selection, dosing, side effect management, adherence, drug-drug interactions, or level of care considerations. It includes consultations between clinicians designed to assist clinicians with seeking expert advice on treatment needs for specific persons served. These consultations can occur in person, by telehealth, by telephone, or by asynchronous telecommunication systems.



**NON-DMC FUNDED SERVICES:**

Non-DMC eligible persons served will have access to the same services as DMC-eligible persons served with costs reimbursed through other sources. These services, available to all perinatal and non-perinatal adults and adolescents, include:

- Early Intervention Services
- Outpatient
- Intensive Outpatient
- Medication Assisted Treatment
- Residential treatment, including Withdrawal Management
- Care Coordination
- Peer Support Services
- Recovery Services
- Clinician Consultation

Room and Board for Residential Treatment and Withdrawal Management services is not eligible for reimbursement through DMC. These costs will be covered with other non-DMC funding sources.

## **SUBSTANCE ABUSE PREVENTION AND TREATMENT (SABG) SPECIFIC REQUIREMENTS**

Fresno County, through the Department of Behavioral Health, makes Substance Use Disorder (SUD) treatment services available throughout the county to eligible persons served through funds provided under an Substance Abuse Block Grant (SABG) with the California Department of Health Care Services. The County, and all contracted providers, must comply with the terms of the SABG application, and any amendments thereto, including but not limited to the following:

### **1. STATE ALCOHOL AND DRUG REQUIREMENTS**

#### **A. INDEMNIFICATION**

The CONTRACTOR agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the CONTRACTOR in the performance of this Agreement.

#### **B. INDEPENDENT CONTRACTOR**

The CONTRACTOR and the agents and employees of CONTRACTOR, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of State of California.

#### **C. CONFIDENTIALITY**

CONTRACTOR shall conform to and COUNTY shall monitor compliance with all State of California and Federal statutes and regulations regarding confidentiality, including but not limited to confidentiality of information requirements at Part 2, Title 42, Code of Federal Regulations; California Welfare and Institutions Code, sections 14100.2, 11977, 11812, 5328; Division 10.5 and 10.6 of the California Health and Safety Code; Title 22, California Code of Regulations, section 51009; and Division 1, Part 2.6, Chapters 1-7 of the California Civil Code.

CONTRACTOR shall ensure that all of its employees sign a written Confidentiality Oath, attached hereto as Attachment A, before they begin employment with CONTRACTOR and shall renew said document annually thereafter. CONTRACTOR shall retain each employee's written confidentiality oath for COUNTY and DHCS inspection for a period of six (6) years following the termination of this agreement.

#### **D. REVENUE COLLECTION POLICY**

CONTRACTOR shall conform to all policies and procedures regarding revenue collection issued by the State under the provisions of the Health and Safety Code, Division 10.5.

#### **E. EXPENDITURE OF STATE GENERAL AND FEDERAL FUNDS**

CONTRACTOR agrees that all funds paid out by the State shall be used exclusively for providing alcohol and/or drug program services, administrative costs, and allowable

overhead.

F. ACCESS TO SERVICES

CONTRACTOR shall provide accessible and appropriate services in accordance with Federal and State statutes and regulations to all eligible persons.

G. REPORTS

CONTRACTOR agrees to participate in surveys related to the performance of this Agreement and expenditure of funds and agrees to provide any such information in a mutually agreed upon format.

H. AUDITS

All State and Federal funds furnished to the CONTRACTOR(S) pursuant to this Agreement along with related patient fees, third party payments, or other related revenues and funds commingled with the foregoing funds are subject to audit by the State. The State may audit all alcohol and drug program revenue and expenditures contained in this Agreement for the purpose of establishing the basis for the subsequent year's negotiation.

I. RECORDS MAINTENANCE

1) CONTRACTOR shall maintain books, records, documents, and other evidence necessary to monitor and audit this Agreement.

2) CONTRACTOR shall maintain adequate program and fiscal records relating to individuals served under the terms of this Agreement, as required, to meet the needs of the State in monitoring quality, quantity, fiscal accountability, and accessibility of services. Information on each individual shall include, but not be limited to, admission records, person served interviews and progress notes, and records of service provided by various service locations, in sufficient detail to make possible an evaluation of services provided and compliance with this Agreement.

3) CONTRACTOR shall include in any contract with an audit firm a clause to permit access by DHCS to the working papers of the external independent auditor and require that copies of the working papers shall be made for DHCS at its request.

**2. CONTROL REQUIREMENTS**

Performance under this Agreement is subject to all applicable Federal and State laws, regulations and standards. CONTRACTOR(S) shall establish written procedures consistent with the Control requirements. 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.

These requirements include, but may not be limited to, those set forth in this Agreement, and:

A. HSC, Division 10.5, Part 2 commencing with Section 11760, State Government's Role to Alleviate Problems Related to the Inappropriate Use of Alcoholic Beverages and Other Drug Use.

B. California Code of Regulations (CCR), Title 9, Division 4, commencing with Chapter 1(herein referred to as Title 9).

C. Government Code (GC), Title 2, Division 4, Part 2, Chapter 2, Article 1.7, Federal Block Grant Funds.

D. GC, Title 5, Division 2, Part 1, Chapter 1, Article 7, Federally Mandated Audits of Block Grant Funds Allocated to Local Agencies, commencing with Section 53130.

E. United State Code (USC), Title 42, Chapter 6A, Subchapter XVII, Part B, Subpart ii, commencing with Section 300x-21, Block Grants for Prevention and Treatment of Substance Abuse.

F. Code of Federal Regulations (CFR), Title 45, Part 75, Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards.

G. CFR, Title 45, Part 96, Block Grants.

H. CFR, Title 42, Part 2, Confidentiality of Substance Use Disorder Patient Records.

I. Title 42, CFR, Part 8, Medication Assisted Treatment for Opioid Use Disorders.

J. CFR, Title 21, Chapter II, Drug Enforcement Administration, Department of Justice.

K. State Administrative Manual (SAM), Chapter 7200, General Outline of Procedures.

**3. MINIMUM QUALITY DRUG TREATMENT STANDARDS**

CONTRACTOR shall comply with the Minimum Quality Drug Treatment Standards for SABG for all SUD treatment programs. The Minimum Quality Drug Treatment Standards are attached hereto and by this reference incorporated herein as Attachment D.

**4. SALARY RESTRICTION**

CONTRACTOR agrees that no part of any federal funds provided under this Contract shall be used by CONTRACTOR to pay the salary and wages of an individual at a rate in excess of Level II of the Executive Schedule as found online at: [https://grants.nih.gov/grants/policy/salcap\\_summary.htm](https://grants.nih.gov/grants/policy/salcap_summary.htm).

Executive salaries shall be provided to COUNTY in the annual Provider Risk Assessment and/or upon request.

SABG funds used to pay a salary in excess of the rate of basic pay for Level I of the Executive Schedule shall be subject to disallowance. The amount disallowed shall be determined by subtracting the individual's actual salary from the Level I rate of basic pay and multiplying the result by the percentage of the individual's salary that was paid with SABG funds (Reference: Terms and Conditions of the SABG award).

Note that indirect costs can only be allocated to SABG contracted services using any of the following cost allocation methodologies; percentage of direct cost, percentage of direct salary cost, or federally-approved indirect cost rate.

**5. PERINATAL PRACTICE GUIDELINES**

CONTRACTOR shall comply with the perinatal program requirements as outlined in the current version of the Perinatal Practice Guidelines available online at:

<https://www.dhcs.ca.gov/individuals/Pages/Perinatal-Services.aspx>

**6. RESTRICTIONS ON USE OF SUBSTANCE ABUSE BLOCK GRANT (SABG) FUNDS TO PAY FOR SERVICES REIMBURSABLE BY MEDI-CAL**

CONTRACTOR shall ensure that billing SABG funds only occurs for services that are not reimbursable by Medi-Cal. If CONTRACTOR utilizes SABG funds to pay for a service included in the DMC-ODS, CONTRACTOR shall maintain documentation sufficient to demonstrate that Medi-Cal reimbursement was not available. This documentation shall be provided to COUNTY at the time of billing and retained in the person served's file for review.

**7. BARRIERS TO SERVICES**

CONTRACTOR shall provide services to all eligible persons in accordance with state and federal statutes and regulations. CONTRACTOR shall assure that in planning for the provision of services, the following barriers to services are considered and addressed:

- A. Lack of educational materials or other resources for the provision of services.
- B. Geographic isolation and transportation needs of persons seeking services or remoteness of services.
- C. Institutional, cultural, and ethnicity barriers.
- D. Language differences.
- E. Lack of service advocates.
- F. Failure to survey or otherwise identify the barriers to service accessibility.
- G. Needs of persons with a disability.

**8. RISK ASSESSMENT**

CONTRACTOR shall comply with the sub-recipient pre-award risk assessment requirements contained in 45 CFR 72.205. COUNTY shall review the merit and risk associated with each potential CONTRACTOR annually prior to making an award. COUNTY shall perform and document annual sub-recipient pre-award risk assessments for each CONTRACTOR and retain documentation for audit purposes.

**9. CALIFORNIA OUTCOMES MEASUREMENT SYSTEM FOR TREATMENT (CALOMS-TX)**

CONTRACTOR shall comply with the CalOMS-Tx data collection requirements for submission of data to COUNTY. CONTRACTOR shall submit admission, discharge, annual update, resubmission of records containing errors or in need of correction, and "provider no activity" report records in a format approved by COUNTY.

**10. CAPACITY REPORTING**

CONTRACTOR shall ensure that if their program reaches or exceeds 90 percent of dedicated capacity CONTRACTOR shall report this information to COUNTY and DHCSOWPS@dhcs.ca.gov within four days of reaching capacity.

**11. DRUG AND ALCOHOL TREATMENT ACCESS REPORT (DATAR)**

CONTRACTOR shall submit monthly DATAR reports by the 5<sup>th</sup> of the month following the report activity month. CONTRACTOR shall be considered compliant if a minimum of 95 percent of required DATAR reports are received by the due date.

**12. CHARITABLE CHOICE**

CONTRACTOR shall document the total number of referrals necessitated by religious objection to other alternative SUD providers. CONTRACTOR may not discriminate in its program delivery against a person served or potential person served on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice. Any specifically religious activity or service made available to individuals by the CONTRACTOR must be voluntary as well as separate in time and location from County funded activities and services. CONTRACTOR shall inform County as to whether it is faith-based. If CONTRACTOR identifies as faith-based it must submit to DBH Contracts Division – Substance Use Disorder (SUD) Services a copy of its policy on referring individuals to alternate treatment CONTRACTOR and include a copy of this policy in its admission forms. The policy must inform individuals that they may be referred to an alternative provider if they object to the religious nature of the program and include a notice to SUD Services. Adherence to this policy will be monitored during annual site reviews, and a review of person served files. If CONTRACTOR identifies as faith-based, by July 1 of each year CONTRACTOR will be required to report to SUD Services the number of individuals who requested referrals to alternate providers based on religious objection.

**13. DRUG FREE WORKPLACE**

CONTRACTOR shall comply with the requirements of the Drug-Free Work Place Act of 1990 (California Government Code section 8350).

**14. SUBCONTRACT PROVISIONS**

The following contract provisions are required to be included in all agreements verbatim by the Department of Health Care Services. Any references to “County” in the foregoing clauses shall apply to the CONTRACTORS noted in Exhibit A of this agreement.

**A. ADDITIONAL CONTRACT RESTRICTIONS**

This Contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress, or any statute enacted by the Congress, which may affect the provisions, terms, or funding of this Contract in any manner.

**B. HATCH ACT**

County agrees to comply with the provisions of the Hatch Act (USC, Title 5, Part III, Subpart F., Chapter 73, Subchapter III), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

C. NO UNLAWFUL USE OR UNLAWFUL MESSAGE REGARDING DRUGS

County agrees that information produced through these funds, and which pertains to drugs and alcohol-related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug or alcohol-related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC, Division 10.7, Chapter 1429, Sections 11999-11999.3). By signing this Enclosure, County agrees that it will enforce, and will require its subcontractors to enforce, these requirements.

CONTRACTOR must sign the Unlawful Use of Drugs and Alcohol Certification, attached hereto as Attachment B, incorporated herein by reference and made part of this Agreement, agreeing to uphold the obligations of HSC 11999 – 11999.3.

This agreement may be unilaterally terminated, without penalty, if CONTRACTOR or a subcontractor that is a private entity is determined to have violated a prohibition of the Unlawful Use of Drugs and Alcohol message or has an employee who is determined by the DBH Director or her designee to have violated a prohibition of the Unlawful Use of Drugs and Alcohol message.

D. LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES

None of the funds made available through this Contract may be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of Section 202 of the Controlled Substances Act (21 USC 812).

E. DEBARMENT AND SUSPENSION

COUNTY shall not subcontract with or employ any party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp. p. 189) and 12689 (3 CFR part 1989., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

The County shall advise all subcontractors of their obligation to comply with applicable federal debarment and suspension regulations, in addition to the requirements set forth in 42 CFR Part 1001.

If a County subcontracts or employs an excluded party, DHCS has the right to withhold payments, disallow costs, or issue a CAP, as appropriate, pursuant to HSC Code 11817.8(h).

F. RESTRICTION ON DISTRIBUTION OF STERILE NEEDLES

No SABG funds made available through this Contract shall be used to carry out any program that includes the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug unless DHCS chooses to implement a demonstration syringe services program for injecting drug users.

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

All work performed under this Contract is subject to HIPAA, County shall perform the work in compliance with all applicable provisions of HIPAA. As identified in Exhibit E, DHCS and County shall cooperate to assure mutual agreement as to those transactions between them, to which this provision applies. Refer to Exhibit E for additional information.

1. Trading Partner Requirements

a) No Changes. County hereby agrees that for the personal health information (Information), it will not change any definition, data condition or use of a data element or segment as proscribed in the Federal Health and Human Services (HHS) Transaction Standard Regulation (45 CFR 162.915 (a)).

b) No Additions. County hereby agrees that for the Information, it will not add any data elements or segments to the maximum data set as proscribed in the HHS Transaction Standard Regulation (45 CFR 162.915 (b)).

c) No Unauthorized Uses. County hereby agrees that for the Information, it will not use any code or data elements that either are marked "not used" in the HHS Transaction's Implementation specification or are not in the HHS Transaction Standard's implementation specifications (45 CFR 162.915 (c)).

d) No Changes to Meaning or Intent. County hereby agrees that for the Information, it will not change the meaning or intent of any of the HHS Transaction Standard's implementation specification (45 CFR 162.915 (d)).

2. Concurrence for Test Modifications to HHS Transaction Standards

County agrees and understands that there exists the possibility that DHCS or others may request an extension from the uses of a standard in the HHS Transaction Standards. If this occurs, County agrees that it will participate in such test modifications.

3. Adequate Testing

County is responsible to adequately test all business rules appropriate to their types and specialties. If the County is acting as a clearinghouse for enrolled providers, County has obligations to adequately test all business rules appropriate to each and every provider type and specialty for which they provide clearinghouse services.

4. Deficiencies

County agrees to correct transactions, errors, or deficiencies identified by DHCS, and transactions errors or deficiencies identified by an enrolled provider if the County is acting as a clearinghouse for that provider. When County is a clearinghouse, County agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.

5. Code Set Retention



Both parties understand and agree to keep open code sets being processed or used in this Contract for at least the current billing period or any appeal period, whichever is longer.

#### 6. Data Transmission Log

Both parties shall establish and maintain a Data Transmission Log which shall record any and all Data Transmissions taking place between the Parties during the term of this Contract. Each party will take necessary and reasonable steps to ensure that such Data Transmission Logs constitute a current, accurate, complete, and unaltered record of any and all Data Transmissions between the parties, and shall be retained by each Party for no less than twenty-four (24) months following the date of the Data Transmission. The Data Transmission Log may be maintained on computer media or other suitable means provided that, if it is necessary to do so, the information contained in the Data Transmission Log may be retrieved in a timely manner and presented in readable form.

#### H. NONDISCRIMINATION AND INSTITUTIONAL SAFEGUARDS FOR RELIGIOUS PROVIDERS

County shall establish such processes and procedures as necessary to comply with the provisions of USC, Title 42, Section 300x-65 and CFR, Title 42, Part 54.

These regulations prohibit discrimination against nongovernmental organizations and certain individuals on the basis of religion in the distribution of government funds to provide substance abuse services and to allow the organizations to accept the funds to provide the services to the individuals without impairing the religious character of the organizations or the religious freedom of the individuals.

#### I. COUNSELOR CERTIFICATION

Any counselor or registrant providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in a DHCS licensed or certified program is required to be registered or certified as defined in CCR, Title 9, Division 4, Chapter 8.

#### J. CULTURAL AND LINGUISTIC PROFICIENCY

To ensure equal access to quality care by diverse populations, each service provider receiving funds from this Contract shall adopt the Federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards as outlined online at: <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53https://thinkculturalhealth.hhs.gov/cas/standards>

CONTRACTOR must comply with 42 CFR 438.206(c)(2). CONTRACTOR shall promote the delivery of services in a culturally competent manner to all persons served, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation or gender identity. CONTRACTOR shall provide effective, equitable, understandable and respectful quality of care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy and other communication needs.

#### K. INTRAVENOUS DRUG USE (IVDU) TREATMENT

County shall ensure that individuals in need of IVDU treatment shall be encouraged to undergo AOD treatment (42 USC 300x-23 (45 CFR 96.126(e)).

L. TUBERCULOSIS TREATMENT

County shall ensure the following related to Tuberculosis (TB):

1. Routinely make available TB services to individuals receiving treatment.
2. Reduce barriers to patients' accepting TB treatment.
3. Develop strategies to improve follow-up monitoring, particularly after patients leave treatment, by disseminating information through educational bulletins and technical assistance.

M. TRAFFICKING VICTIMS PROTECTION ACT OF 2000

County and its subcontractors that provide services covered by this Contract shall comply with the Trafficking Victims Protection Act of 2000 (USC, Title 22, Chapter 78, Section 7104) as amended by section 1702 of Pub. L. 112-239.

CONTRACTOR, CONTRACTOR's employees, subrecipients, and subrecipients' employees may not:

1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
2. Procure a commercial sex act during the period of time that the award is in effect; or
3. Use forced labor in the performance of the award or subawards under the award.

This agreement may be unilaterally terminated, without penalty, if CONTRACTOR or a subrecipient that is a private entity is determined to have violated a prohibition of the TVPA or has an employee who is determined by the DBH Director or her designee to have violated a prohibition of the TVPA through conduct that is either associated with performance under the award or imputed to the CONTRACTOR or their subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement).

CONTRACTOR must inform the DBH Director or her designee immediately of any information received from any source alleging a violation of a prohibition of the TVPA.

CONTRACTOR must sign a certification annually acknowledging the Trafficking Victims Protection Act of 2000 requirements (TVPA Certification), attached hereto as Attachment C, incorporated herein by reference and made part of this Agreement and must require all employees to complete annual TVPA training.

N. TRIBAL COMMUNITIES AND ORGANIZATIONS

County shall regularly review population information available through Census, compare to information obtained in the California Outcome Measurement System for Treatment (CalOMS-Tx) to determine whether the population is being reached, and survey Tribal representatives for insight in potential barriers to the substance use service needs of the American Indian/Alaskan Native (AI/AN) population within the County geographic area. Contractor shall also engage in regular and meaningful consultation and collaboration with elected officials of the tribe, Rancheria, or their designee for the purpose of identifying issues/barriers to service delivery and improvement of the quality, effectiveness, and accessibility of services available to AI/AN communities within the County.

O. MARIJUANA RESTRICTION

Grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. See, e.g., 45 CFR. § 75.300(a) (requiring HHS to “ensure that Federal funding is expended . . . in full accordance with U.S. statutory . . . requirements.”); 21 USC § 812(c) (10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana). This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under Federal law.

P. PARTICIPATION OF COUNTY BEHAVIORAL HEALTH DIRECTOR’S ASSOCIATION OF CALIFORNIA

The County AOD Program Administrator shall participate and represent the County in meetings of the County Behavioral Health Director’s Association of California for the purposes of representing the counties in their relationship with DHCS with respect to policies, standards, and administration for AOD abuse services.

The County AOD Program Administrator shall attend any special meetings called by the Director of DHCS. Participation and representation shall also be provided by the County Behavioral Health Director’s Association of California.

Q. ADOLESCENT BEST PRACTICES GUIDELINES

County must utilize DHCS guidelines in developing and implementing youth treatment programs funded under this Enclosure The Adolescent Best Practices Guidelines can be found at:

[https://www.dhcs.ca.gov/Documents/CSD\\_CMHCS/Adol%20Best%20Practices%20Guide/AdolBestPracGuideOCTOBER2020.pdf](https://www.dhcs.ca.gov/Documents/CSD_CMHCS/Adol%20Best%20Practices%20Guide/AdolBestPracGuideOCTOBER2020.pdf)

R. BYRD ANTI-LOBBYING AMENDMENT (31 USC 1352)

County certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award

covered by 31 USC 1352. County shall also disclose to DHCS any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

S. NONDISCRIMINATION IN EMPLOYMENT AND SERVICES

County certifies that under the laws of the United States and the State of California, County will not unlawfully discriminate against any person.

T. FEDERAL LAW REQUIREMENTS

1. Title VI of the Civil Rights Act of 1964, Section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally-funded programs.

2. Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.) prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing.

3. Age Discrimination Act of 1975 (45 CFR Part 90), as amended 42 USC Sections 6101 6107), which prohibits discrimination on the basis of age.

4. Age Discrimination in Employment Act (29 CFR Part 1625).

5. Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.

6. Title II of the Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities.

7. Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding access.

8. Section 504 of the Rehabilitation Act of 1973, as amended (29 USC Section 794), prohibiting discrimination on the basis of individuals with disabilities.

9. Executive Order 11246 (42 USC 2000(e) et seq. and 41 CFR Part 60 regarding nondiscrimination in employment under federal contracts and construction contracts greater than \$10,000 funded by federal financial assistance.

10. Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency.

11. The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse.

12. Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part 2, Subparts A – E)

U. STATE LAW REQUIREMENTS

1. Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (2 CCR 7285.0 et seq.).

2. Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135.

3. Title 9, Division 4, Chapter 8 of the CCR, commencing with Section 13000.

4. No federal funds shall be used by the County or its subcontractors for sectarian worship, instruction, or proselytization. No federal funds shall be used by the County or its subcontractors to provide direct, immediate, or substantial support to any religious activity.

V. ADDITIONAL CONTRACT RESTRICTIONS

1. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for DHCS to withhold payments under this Contract or terminate all, or any type, of funding provided hereunder.

2. This Contract is subject to any additional restrictions, limitations, or conditions enacted by the federal or state governments that affect the provisions, terms, or funding of this Contract in any manner.

W. INFORMATION ACCESS FOR INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY

1. County shall comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act (Government Code sections 7290-7299.8) regarding access to materials that explain services available to the public as well as providing language interpretation services.

2. County shall comply with the applicable provisions of Section 1557 of the Affordable Care Act (45 CFR Part 92), including, but not limited to, 45 CFR 92.201, when providing access to: (a) materials explaining services available to the public, (b) language assistance, (c) language interpreter and translation services, or (d) video remote language interpreting services.

**15. FEDERAL DEBARMENT AND SUSPENSION CERTIFICATION**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS**

A. DBH and CONTRACTOR recognize that Federal assistance funds will be used under the terms of this Agreement. For purposes of this section, DBH will be referred to as the "prospective recipient".

B. This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, section 98.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

1) The prospective recipient of Federal assistance funds certifies by entering this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2) The prospective recipient of funds agrees by entering into this Agreement, that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this

covered transaction, unless authorized by the Federal department or agency with which this transaction originated.

3) Where the prospective recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such prospective person served shall attach an explanation to this Agreement.

4) The CONTRACTOR shall provide immediate written notice to DBH if at any time CONTRACTOR learns that its certification in this clause of this Agreement was erroneous when submitted or has become erroneous by reason of changed circumstances.

5) The prospective recipient further agrees that by entering into this Agreement, it will include a clause identical to this clause of this Agreement, and titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions", in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6) The certification in this clause of this Agreement is a material representation of fact upon which reliance was placed by COUNTY when this transaction was entered into.

C. CONTRACTOR shall not employ or subcontract with any party listed in the government wide exclusions in the System for Award Management (SAM) in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp. p. 189) and 12689 (3 CFR part 1989., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. If CONTRACTOR employs or subcontracts an excluded party, DHCS has the right to withhold payments, disallow costs, or issue a CAP, as appropriate, pursuant to HSC Code 11817.8(h).

D. If CONTRACTOR subcontracts or employs an excluded party, COUNTY and DHCS have the right to withhold payments, disallow costs, or issue a CAP, as appropriate, pursuant to HSC Code 11817.8(h).

1) By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 2 CFR 180, 2 CFR 376

2) By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:

(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 application/proposal/agreement 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) violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any other offense indicating a lack of business integrity or business honesty



that seriously affects its business honesty;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and

(d) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

(e) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.

(f) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.

(g) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

E. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DBH Program Contract Manager.

F. The terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376.

G. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DBH may terminate this Agreement for cause or default.

## **16. SMOKING-FREE WORKPLACE CERTIFICATION**

(Applicable to federally funded agreements and subcontracts, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

A. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.

B. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an

administrative compliance order on the responsible party.

C. By signing this Agreement, Contractor certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.

D. Contractor further agrees that it will insert this certification into any subawards entered into that provide for children's services as described in the Act.

**17. ADA CONSIDERATIONS**

CONTRACTOR shall ensure that physical access, reasonable accommodations, and accessible equipment for persons served with physical or mental disabilities are provided to all persons served in accordance with CFR Title 45, Part 84 and the American with Disabilities Act.

**18. INTERIM SERVICES**

CONTRACTOR must adhere to the State-County Contract requirement to provide Interim Services in the event that an individual must wait to be placed in treatment.

Interim Substance Abuse Services means services that are provided until an individual is admitted to a substance abuse treatment program. The purposes of the services are to reduce the adverse health effects of such abuse, promote the health of the individual, and reduce the risk of transmission of disease. At a minimum, interim services include counseling and education about HIV and tuberculosis (TB), about the risks of needle-sharing, the risks of transmission to sexual partners and infants, and about steps that can be taken to ensure the HIV and TB transmission does not occur, as well as referral for HIV or TB treatment services if necessary. For pregnant women, interim services also include counseling on the effects of alcohol and drug use on the fetus, as well as referral for prenatal care.

Records must indicate evidence that Interim Services have been provided and documentation will be reviewed for compliance.



## **Exhibit P 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.

## Exhibit Q Data Security

### 1. Definitions

Capitalized terms used in this Exhibit Q 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 Q.
- (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 Q.
- (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 Q.

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**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 Q;
  - (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

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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 Q, 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)

## **Exhibit Q 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 Q. 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



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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@fresnocountyca.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 Q, 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 Q, all at the Contractor's sole expense, in accordance with applicable privacy rights, laws, regulations and standards.

## **Exhibit Q 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 Q.
- (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 Q, 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 Q.
- (C) The Contractor shall ensure that all Authorized Persons who Use Personal Information agree to the same restrictions and conditions in this Exhibit Q. 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.

## **Exhibit Q 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 Q, 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 Q 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 Q 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 Q 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 Q 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.

**Exhibit Q**  
**Data Security**

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

**10. No Third Party Beneficiary.** Nothing express or implied in the provisions of in this Exhibit Q is intended to confer, nor shall anything in this Exhibit Q 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.