

AGREEMENT

THIS AGREEMENT is made and entered into effective January 1, 2022, by and between the COUNTY OF FRESNO, hereinafter referred to as "COUNTY", and Navia Benefit Solutions, Inc., a Washington corporation, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, the COUNTY desires to obtain certain health benefit administrative services, including processing COUNTY retirees' enrollment, billing and reporting, for County retirees that are 65 years of age or older (hereinafter "post-65 retirees"); and

WHEREAS, the COUNTY participates in health insurance programs for its employees and pre-65 aged retirees offered through its participation in the San Joaquin Valley Insurance Authority (SJVIA); and

WHEREAS, the SJVIA offers additional administrative services including consolidated eligibility and billing services through its separate agreement with CONTRACTOR; and

WHEREAS, the COUNTY desires to ensure consistency and efficiency in health benefit administrative services offered through the SJVIA by matching pricing and services for its post-65 retirees; and

WHEREAS, the CONTRACTOR represents that it is willing and able to provide the health benefit administrative services as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

1. OBLIGATIONS OF THE CONTRACTOR

A. The CONTRACTOR will provide health benefit administrative services as outlined in Exhibit A, attached hereto and incorporated herein by this reference.

B. The CONTRACTOR will provide the COUNTY with general administrative services that include, but are not limited to:

1. Furnishing necessary training to assist the COUNTY in utilizing the CONTRACTOR'S services.

1 2. Furnishing the COUNTY with all available information from the
2 CONTRACTOR's records which the COUNTY may need.

3 3. Resolving any issues raised by COUNTY with due diligence. Any
4 questionable enrollment or service requests made by any post-65 retiree will be referred to
5 COUNTY for clarification

6 2. OBLIGATIONS OF THE COUNTY

7 A. The COUNTY is solely responsible for compliance with the Internal
8 Revenue Code and other Federal, State or local laws.

9 B. The COUNTY is solely responsible for the accuracy and integrity of
10 COUNTY data.

11 3. TERM

12 This Agreement shall become effective on the 1st day of January, 2022 and
13 shall terminate on the 31st day of December, 2022.

14 4. TERMINATION

15 A. Non-Allocation of Funds - The terms of this Agreement, and the services to
16 be provided thereunder, are contingent on the approval of funds by the COUNTY. Should
17 sufficient funds not be allocated, the services provided may be modified, or this Agreement
18 terminated, at any time by giving the CONTRACTOR thirty (30) days advance written notice.

19 B. Breach of Contract - The COUNTY may immediately suspend or terminate
20 this Agreement in whole or in part, where in the determination of the COUNTY there is:

- 21 1. An illegal or improper use of funds;
- 22 2. A failure to comply with any term of this Agreement;
- 23 3. A substantially incorrect or incomplete report submitted to the
24 COUNTY;
- 25 4. Improperly performed service.

26 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY
27 of any breach of this Agreement or any default which may then exist on the part of the
28 CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to the

1 COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of
2 the CONTRACTOR the repayment to the COUNTY of any funds disbursed to the CONTRACTOR
3 under this Agreement, which in the judgment of the COUNTY were not expended in accordance
4 with the terms of this Agreement. The CONTRACTOR shall promptly refund any such funds upon
5 demand.

6 C. Without Cause - Under circumstances other than those set forth above,
7 this Agreement may be terminated by COUNTY upon the giving of sixty (60) days advance written
8 notice of an intention to terminate to CONTRACTOR.

9 5. COMPENSATION: COUNTY agrees to pay CONTRACTOR and
10 CONTRACTOR agrees to receive compensation as follows: \$2.00 Per Post-65 Retiree Per Month
11 (PRPM) paid monthly throughout the term of this Agreement per the compiled monthly transmittals
12 provided by the COUNTY for funding disbursement. The PRPM fee will be paid in arrears and is
13 based on the actual number of eligible Medicare retirees as determined by the COUNTY and as
14 used for all eligibility purposes for the specific contract month.

15 6. OWNERSHIP OF DATA: All data delivered by the COUNTY to
16 CONTRACTOR, or which is created by either party for the COUNTY in connection with the
17 performance of this Agreement, shall be the exclusive property of the COUNTY. CONTRACTOR
18 shall be the custodian of such data and will immediately make such data available to the COUNTY
19 upon request during normal working hours. CONTRACTOR shall return all personnel/payroll raw
20 data collected or generated in connection with the performance of the Agreement within thirty (30)
21 days of the termination of this Agreement and shall not access said data for any purpose other
22 than in connection with the performance of this Agreement.

23 7. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

24 A. The parties to this Agreement shall be in strict conformance with all
25 applicable Federal and State of California laws and regulations, including but not limited to
26 Sections 5328, 10850, and 14100.2 et seq. of the Welfare and Institutions Code, Sections 2.1 and
27 431.300 et seq. of Title 42, Code of Federal Regulations (CFR), Section 56 et seq. of the
28 California Civil Code, Sections 11977 and 11812 of Title 22 of the California Code of Regulations,

1 and the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to
2 Section 1320 D et seq. of Title 42, United States Code (USC) and its implementing regulations,
3 including, but not limited to Title 45, CFR, Sections 142, 160, 162, and 164, The Health
4 Information Technology for Economic and Clinical Health Act (HITECH) regarding the
5 confidentiality and security of patient information, and the Genetic Information Nondiscrimination
6 Act (GINA) of 2008 regarding the confidentiality of genetic information.

7 Except as otherwise provided in this Agreement, CONTRACTOR, as a
8 Business Associate of COUNTY, may use or disclose Protected Health Information (PHI) to
9 perform functions, activities or services for or on behalf of COUNTY, as specified in this
10 Agreement, provided that such use or disclosure shall not violate the Health Insurance Portability
11 and Accountability Act (HIPAA), 42 USC 1320d et seq. The uses and disclosures of PHI may not
12 be more expansive than those applicable to COUNTY, as the “Covered Entity” under the HIPAA
13 Privacy Rule (45 CFR 164.500 et seq.), except as authorized for management, administrative or
14 legal responsibilities of the Business Associate.

15 B. CONTRACTOR, including its subcontractors and employees, shall protect,
16 from unauthorized access, use, or disclosure of names and other identifying information, including
17 genetic information, concerning persons receiving services pursuant to this Agreement, except
18 where permitted in order to carry out data aggregation purposes for health care operations [45
19 CFR Sections 164.504 (e)(2)(i), 164.504 (3)(2)(ii)(A), and 164.504 (e)(4)(i)] This pertains to any
20 and all persons receiving services pursuant to a COUNTY funded program. This requirement
21 applies to electronic PHI. CONTRACTOR shall not use such identifying information or genetic
22 information for any purpose other than carrying out CONTRACTOR’s obligations under this
23 Agreement.

24 C. CONTRACTOR, including its subcontractors and employees, shall not
25 disclose any such identifying information or genetic information to any person or entity, except as
26 otherwise specifically permitted by this Agreement, authorized by Subpart E of 45 CFR Part 164
27 or other law, required by the Secretary, or authorized by the client/patient in writing. In using or
28 disclosing PHI that is permitted by this Agreement or authorized by law, CONTRACTOR shall

1 make reasonable efforts to limit PHI to the minimum necessary to accomplish intended purpose
2 of use, disclosure or request.

3 D. For purposes of the above sections, identifying information shall include,
4 but not be limited to name, identifying number, symbol, or other identifying particular assigned to
5 the individual, such as finger or voice print, or photograph.

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

11 F. CONTRACTOR shall provide access, at the request of COUNTY, and in
12 the time and manner designated by COUNTY, to PHI in a designated record set (as defined in 45
13 CFR Section 164.501), to an individual or to COUNTY in order to meet the requirements of 45
14 CFR Section 164.524 regarding access by individuals to their PHI. With respect to individual
15 requests, access shall be provided within thirty (30) days from request. Access may be extended
16 if CONTRACTOR cannot provide access and provides individual with the reasons for the delay
17 and the date when access may be granted. PHI shall be provided in the form and format
18 requested by the individual or COUNTY.

19 CONTRACTOR shall make any amendment(s) to PHI in a designated record set at
20 the request of COUNTY or individual, and in the time and manner designated by COUNTY in
21 accordance with 45 CFR Section 164.526.

22 CONTRACTOR shall provide to COUNTY or to an individual, in a time and manner
23 designated by COUNTY, information collected in accordance with 45 CFR Section 164.528, to
24 permit COUNTY to respond to a request by the individual for an accounting of disclosures of PHI
25 in accordance with 45 CFR Section 164.528.

26 G. CONTRACTOR shall report to COUNTY, in writing, any knowledge or
27 reasonable belief that there has been unauthorized access, viewing, use, disclosure, security
28 incident, or breach of unsecured PHI not permitted by this Agreement of which it becomes aware,

1 immediately and without reasonable delay and in no case later than two (2) business days of
2 discovery. Immediate notification shall be made to COUNTY's Information Security Officer and
3 Privacy Officer and COUNTY's DPH HIPAA Representative, within two (2) business days of
4 discovery. The notification shall include, to the extent possible, the identification of each individual
5 whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired,
6 used, disclosed, or breached. CONTRACTOR shall take prompt corrective action to cure any
7 deficiencies and any action pertaining to such unauthorized disclosure required by applicable
8 Federal and State Laws and regulations. CONTRACTOR shall investigate such breach and is
9 responsible for all notifications required by law and regulation or deemed necessary by COUNTY
10 and shall provide a written report of the investigation and reporting required to COUNTY's
11 Information Security Officer and Privacy Officer and COUNTY's DPH HIPAA Representative. This
12 written investigation and description of any reporting necessary shall be postmarked within the
13 thirty (30) working days of the discovery of the breach to the addresses below:

14 County of Fresno
15 Dept. of Public Health
16 HIPAA Representative
17 (559) 600-6439
18 P.O. Box 11867
19 Fresno, CA 93775

20 County of Fresno
21 Dept. of Public Health
22 Privacy Officer
23 (559) 600-6405
24 P.O. Box 11867
25 Fresno, CA 93775

26 County of Fresno
27 Dept. of Internal Services
28 Information Security Officer
(559) 600-5800
333 W. Pontiac Way
Clovis, CA 93612

18 H. CONTRACTOR shall make its internal practices, books, and records
19 relating to the use and disclosure of PHI received from COUNTY, or created or received by the
20 CONTRACTOR on behalf of COUNTY, in compliance with HIPAA's Privacy Rule, including, but
21 not limited to the requirements set forth in Title 45, CFR, Sections 160 and 164. CONTRACTOR
22 shall make its internal practices, books, and records relating to the use and disclosure of PHI
23 received from COUNTY, or created or received by the CONTRACTOR on behalf of COUNTY,
24 available to the United States Department of Health and Human Services (Secretary) upon
25 demand.
26

27 CONTRACTOR shall cooperate with the compliance and investigation reviews
28 conducted by the Secretary. PHI access to the Secretary must be provided during the

1 CONTRACTOR's normal business hours, however, upon exigent circumstances access at any
2 time must be granted. Upon the Secretary's compliance or investigation review, if PHI is
3 unavailable to CONTRACTOR and in possession of a Subcontractor, it must certify efforts to
4 obtain the information to the Secretary.

5 I. Safeguards

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

17 CONTRACTOR shall implement strong access controls and other security
18 safeguards and precautions in order to restrict logical and physical access to confidential,
19 personal (e.g., PHI) or sensitive data to authorized users only. Said safeguards and precautions
20 shall include the following administrative and technical password controls for all systems used to
21 process or store confidential, personal, or sensitive data:

- 22 1. Passwords must not be:
 - 23 a. Shared or written down where they are accessible or recognizable by
24 anyone else; such as taped to computer screens, stored under keyboards,
25 or visible in a work area;
 - 26 b. A dictionary word; or
 - 27 c. Stored in clear text
- 28 2. Passwords must be:

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

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

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

17 CONTRACTOR shall utilize a commercial encryption solution that has received
18 FIPS 140-2 validation to encrypt all confidential, personal, or sensitive data stored on portable
19 electronic media (including, but not limited to, compact disks and thumb drives) and on portable
20 computing devices (including, but not limited to, laptop and notebook computers).

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

27 J. Mitigation of Harmful Effects

28 CONTRACTOR shall mitigate, to the extent practicable, any harmful effect that is

1 suspected or known to CONTRACTOR of an unauthorized access, viewing, use, disclosure, or
2 breach of PHI by CONTRACTOR or its subcontractors in violation of the requirements of these
3 provisions. CONTRACTOR must document suspected or known harmful effects and the
4 outcome.

5 K. CONTRACTOR's Subcontractors

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

12 L. Employee Training and Discipline

13 CONTRACTOR shall train and use reasonable measures to ensure compliance with
14 the requirements of these provisions by employees who assist in the performance of functions or
15 activities on behalf of COUNTY under this Agreement and use or disclose PHI and discipline such
16 employees who intentionally violate any provisions of these provisions, including termination of
17 employment.

18 M. Termination for Cause

19 Upon COUNTY's knowledge of a material breach of these provisions by
20 CONTRACTOR, COUNTY shall either:

- 21 1. Provide an opportunity for CONTRACTOR to cure the breach or end the violation
22 and terminate this Agreement if CONTRACTOR does not cure the breach or end
23 the violation within the time specified by COUNTY; or
- 24 2. Immediately terminate this Agreement if CONTRACTOR has breached a material
25 term of these provisions and cure is not possible.
- 26 3. If neither cure nor termination is feasible, the COUNTY's Privacy Officer shall
27 report the violation to the Secretary of the U.S. Department of Health and Human
28 Services.

1 N. Judicial or Administrative Proceedings

2 COUNTY may terminate this Agreement in accordance with the terms and
3 conditions of this Agreement as written hereinabove, if: (1) CONTRACTOR is found guilty in a
4 criminal proceeding for a violation of the HIPAA Privacy or Security Laws or the HITECH Act; or
5 (2) there is a finding or stipulation that the CONTRACTOR has violated a privacy or security
6 standard or requirement of the HITECH Act, HIPAA or other security or privacy laws in an
7 administrative or civil proceeding in which the CONTRACTOR is a party.

8 O. Effect of Termination

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

18 P. Disclaimer

19 COUNTY makes no warranty or representation that compliance by CONTRACTOR
20 with these provisions, the HITECH Act, HIPAA or the HIPAA regulations will be adequate or
21 satisfactory for CONTRACTOR's own purposes or that any information in CONTRACTOR's
22 possession or control, or transmitted or received by CONTRACTOR, is or will be secure from
23 unauthorized access, viewing, use, disclosure, or breach. CONTRACTOR is solely responsible
24 for all decisions made by CONTRACTOR regarding the safeguarding of PHI.

25 Q. Amendment

26 The parties acknowledge that Federal and State laws relating to electronic data
27 security and privacy are rapidly evolving and that amendment of these provisions may be required
28 to provide for procedures to ensure compliance with such developments. The parties specifically

1 agree to take such action as is necessary to amend this agreement in order to implement the
2 standards and requirements of HIPAA, the HIPAA regulations, the HITECH Act and other
3 applicable laws relating to the security or privacy of PHI. COUNTY may terminate this Agreement
4 upon thirty (30) days written notice in the event that CONTRACTOR does not enter into an
5 amendment providing assurances regarding the safeguarding of PHI that COUNTY in its sole
6 discretion, deems sufficient to satisfy the standards and requirements of HIPAA, the HIPAA
7 regulations and the HITECH Act.

8 R. No Third-Party Beneficiaries

9 Nothing express or implied in the terms and conditions of these provisions is intended to confer,
10 nor shall anything herein confer, upon any person other than COUNTY or CONTRACTOR and
11 their respective successors or assignees, any rights, remedies, obligations or liabilities
12 whatsoever.

13 S. Interpretation

14 The terms and conditions in these provisions shall be interpreted as broadly as
15 necessary to implement and comply with HIPAA, the HIPAA regulations and applicable State
16 laws. The parties agree that any ambiguity in the terms and conditions of these provisions shall be
17 resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA
18 regulations.

19 T. Regulatory References

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

22 U. Survival

23 The respective rights and obligations of CONTRACTOR as stated in this Section
24 shall survive the termination or expiration of this Agreement.

25 V. No Waiver of Obligations

26 No change, waiver or discharge of any liability or obligation hereunder on any one or
27 more occasions shall be deemed a waiver of performance of any continuing or other obligation, or
28 shall prohibit enforcement of any obligation on any other occasion.

1 8. INDEPENDENT CONTRACTOR: In performance of the work, duties and
2 obligations assumed by CONTRACTOR under this Agreement, it is mutually understood and
3 agreed that CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents, and
4 employees will at all times be acting and performing as an independent contractor, and shall act in
5 an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or
6 associate of the COUNTY. Furthermore, COUNTY shall have no right to control or supervise or
7 direct the manner or method by which CONTRACTOR shall perform its work and function.
8 However, COUNTY shall retain the right to administer this Agreement so as to verify that
9 CONTRACTOR is performing its obligations in accordance with the terms and conditions thereof.

10 CONTRACTOR and COUNTY shall comply with all applicable provisions of
11 law and the rules and regulations, if any, of governmental authorities having jurisdiction over
12 matters the subject thereof.

13 Because of its status as an independent contractor, CONTRACTOR shall have
14 absolutely no right to employment rights and benefits available to COUNTY employees.
15 CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its
16 employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely
17 responsible and save COUNTY harmless from all matters relating to payment of
18 CONTRACTOR'S employees, including compliance with Social Security withholding and all other
19 regulations governing such matters. It is acknowledged that during the term of this Agreement,
20 CONTRACTOR may be providing services to others unrelated to the COUNTY or to this
21 Agreement.

22 9. MODIFICATION: Any matters of this Agreement may be modified from time to
23 time by the written consent of all the parties without, in any way, affecting the remainder.

24 10. NON-ASSIGNMENT: Neither party may assign, transfer or sub-contract this
25 Agreement nor their rights or duties under this Agreement without the prior written consent of the
26 other party.

27 11. HOLD HARMLESS: CONTRACTOR agrees to indemnify, save, hold
28 harmless, and at COUNTY'S request, defend the COUNTY, its officers, agents, and employees

1 from any and all costs and expenses (including attorney's fees and costs), damages, liabilities,
2 claims, and losses occurring or resulting to COUNTY in connection with the performance, or
3 failure to perform, by CONTRACTOR, its officers, agents, or employees under this Agreement,
4 and from any and all costs and expenses (including attorney's fees and costs), damages,
5 liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be
6 injured or damaged by the performance, or failure to perform, of CONTRACTOR, its officers,
7 agents, or employees under this Agreement.

8 The provisions of this Section 11 shall survive termination of this Agreement.

9 12. INSURANCE

10 A. Required Insurance

11 Without limiting the COUNTY's right to obtain indemnification from
12 CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall maintain in full
13 force and effect, the following insurance policies or a program of self-insurance, including but not
14 limited to, an insurance pooling arrangement or Joint Powers Agreement (JPA) throughout the
15 term of the Agreement:

16 A. Commercial General Liability

17 Commercial General Liability Insurance with limits of not less than Two Million
18 Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars
19 (\$4,000,000). This policy shall be issued on a per occurrence basis.

20 B. Automobile Liability

21 Comprehensive Automobile Liability Insurance with limits of not less than One
22 Million Dollars (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage
23 should include any auto used in connection with this Agreement.

24 C. Professional Liability

25 CONTRACTOR shall maintain Professional Liability Insurance with limits of
26 not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars
27 (\$3,000,000.00) annual aggregate.

28

1 D. Worker's Compensation

2 A policy of Worker's Compensation insurance as may be required by the
3 California Labor Code.

4 E. Technology Professional Liability (Errors and Omissions)

5 Technology professional liability (errors and omissions) insurance with limits
6 of not less than Two Million Dollars (\$2,000,000.00) per occurrence. Coverage shall
7 encompass all of the CONTRACTOR's duties and obligations that are the subject of this
8 Agreement. Coverage shall include, but not be limited to, any and all claims, damages, costs,
9 fees, regulatory fines and penalties, or forms of legal action involving Cyber Risks.

10 F. Cyber Liability

11 Cyber liability insurance with limits of not less than Two Million Dollars
12 (\$2,000,000.00) per occurrence. Coverage shall include, but not be limited to, any and all
13 claims, damages, costs, fees, regulatory fines and penalties, or forms of legal action involving
14 Cyber Risks. The cyber liability policy shall be endorsed to cover the full replacement value of,
15 damage to, alteration of, loss of, theft of, ransom of, or destruction of intangible property
16 (including but not limited to information or data) that is in the care, custody, or control of
17 CONTRACTOR.

18 For purposes of the technology professional liability insurance and the cyber liability
19 insurance required under this Agreement, Cyber Risks include, but are not limited to, (i) security
20 breaches, which include disclosure of, whether intentional or unintentional, information provided
21 by COUNTY, information provided by or obtained from any employee, or personal-identifying
22 information relating to any employee, to an unauthorized third party; (ii) breach of any of
23 CONTRACTOR's obligations under this Agreement relating to data security, protection,
24 preservation, usage, storage, transmission, and the like; (iii) infringement of intellectual property
25 including, but not limited to, infringement of copyright, trademark, and trade dress; (iv) invasion
26 of privacy, including any release of private information; (v) information theft by any person or
27 entity, whatsoever; (vi) damage to or destruction or alteration of electronic information; (vii)
28 extortion related to CONTRACTOR's obligations under this Agreement regarding electronic

1 information, including information provided by COUNTY, information provided by or obtained
2 from any employee, or personal-identifying information relating to any employee; (viii) network
3 security; (ix) data breach response costs, including security breach response costs; (x)
4 regulatory fines and penalties related to CONTRACTOR's obligations under this Agreement
5 regarding electronic information, including information provided by COUNTY, information
6 provided by or obtained from an employee, or personal-identifying information relating to any
7 employee; and (xi) credit monitoring expenses.

8 B. Additional Requirements Relating to Insurance

9 CONTRACTOR shall obtain endorsements to the Commercial General Liability
10 insurance naming the COUNTY, its officers, agents, and employees, individually and collectively,
11 as additional insured, but only insofar as the operations under this Agreement are concerned.
12 Such coverage for additional insured shall apply as primary insurance and any other insurance, or
13 self-insurance, maintained by COUNTY, its officers, agents and employees shall be excess only
14 and not contributing with insurance provided under CONTRACTOR's policies herein. This
15 insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written
16 notice given to COUNTY.

17 CONTRACTOR hereby waives its right to recover from COUNTY, its officers,
18 agents, and employees any amounts paid by the policy of worker's compensation insurance
19 required by this Agreement. CONTRACTOR is solely responsible to obtain any endorsement to
20 such policy that may be necessary to accomplish such waiver of subrogation, but
21 CONTRACTOR's waiver of subrogation under this paragraph is effective whether or not
22 CONTRACTOR obtains such an endorsement.

23 Within thirty (30) days from the date CONTRACTOR signs and executes this
24 Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated
25 above for all of the foregoing policies, as required herein, to the COUNTY, (Paul Nerland, Director
26 of Human Resources, 2220 Tulare Street, 16th Floor, Fresno, CA 93721), stating that such
27 insurance coverage have been obtained and are in full force; that the COUNTY, officers, agents
28 and employees will not be responsible for any premiums on the policies; that for such worker's

1 compensation insurance that CONTRACTOR has waived its right to recover from the COUNTY,
2 its officers, agents and employees any amounts paid under the insurance policy and that waiver
3 does not invalidate the insurance policy; that such Commercial General Liability insurance names
4 the COUNTY, its officers, agents and employees, individually and collectively, as additional
5 insured, but only insofar as the operations under this Agreement are concerned; that such
6 coverage for additional insured shall apply as primary insurance and any other insurance, or
7 self-insurance, maintained by COUNTY, its officers, agents and employees, shall be excess only
8 and not contributing with insurance provided under CONTRACTOR's policies herein; and that this
9 insurance shall not be cancelled or changed without a minimum of thirty (30) days advance,
10 written notice given to COUNTY.

11 In the event CONTRACTOR fails to keep in effect at all times insurance
12 coverage as herein provided, the COUNTY may, in addition to other remedies it may have,
13 suspend or terminate this Agreement upon the occurrence of such event.

14 All policies shall be with admitted insurers licensed to do business in the State
15 of California. Insurance purchased shall be purchased from companies possessing a current A.M.
16 Best, Inc. rating of A FSC VII or better.

17 13. AUDITS AND INSPECTIONS: The CONTRACTOR shall at any time during
18 business hours, and as often as the COUNTY may deem necessary, make available to the
19 COUNTY for examination all of its records and data with respect to the matters covered by this
20 Agreement. The CONTRACTOR shall, upon request by the COUNTY, permit the COUNTY to
21 audit and inspect all of such records and data necessary to ensure CONTRACTOR'S compliance
22 with the terms of this Agreement.

23 If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR
24 shall be subject to the examination and audit of the Auditor General for a period of three (3) years
25 after final payment under contract (Government Code Section 8546.7).

26 14. NOTICES: The persons and their addresses having authority to give and
27 receive notices under this Agreement include the following:
28

1 COUNTY
2 Hollis Magill,
3 Director of Human Resources
4 2220 Tulare Street, 16th Floor
5 Fresno. CA 93721

CONTRACTOR
 Hilarie Aitken, CEO
 Navia Benefit Solutions, Inc.
 600 Naches Ave SW
 Renton. WA 98057

6 All notices between the COUNTY and CONTRACTOR provided for or
7 permitted under this Agreement must be in writing and delivered either by personal service, by
8 first-class United States mail, by an overnight commercial courier service, or by telephonic
9 facsimile transmission. A notice delivered by personal service is effective upon service to the
10 recipient. A notice delivered by first-class United States mail is effective three COUNTY business
11 days after deposit in the United States mail, postage prepaid, addressed to the recipient. A notice
12 delivered by an overnight commercial courier service is effective one COUNTY business day after
13 deposit with the overnight commercial courier service, delivery fees prepaid, with delivery
14 instructions given for next day delivery, addressed to the recipient. A notice delivered by
15 telephonic facsimile is effective when transmission to the recipient is completed (but, if such
16 transmission is completed outside of COUNTY business hours, then such delivery shall be
17 deemed to be effective at the next beginning of a COUNTY business day), provided that the
18 sender maintains a machine record of the completed transmission. For all claims arising out of or
19 related to this Agreement, nothing in this section establishes, waives, or modifies any claims
20 presentation requirements or procedures provided by law, including but not limited to the
21 Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section
22 810).

23 15. GOVERNING LAW: Venue for any action arising out of or related to this
24 Agreement shall only be in Fresno County, California.

25 The rights and obligations of the parties and all interpretation and performance
26 of this Agreement shall be governed in all respects by the laws of the State of California.

27 16. DISCLOSURE OF SELF-DEALING TRANSACTIONS: This provision is only
28 applicable if the CONTRACTOR is operating as a corporation (a for-profit or non-profit
corporation) or if during the term of the agreement, the CONTRACTOR changes its status to

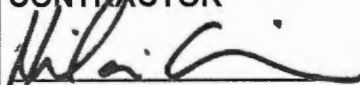
1 operate as a corporation.

2 Members of the CONTRACTOR's Board of Directors shall disclose any self-
3 dealing transactions that they are a party to while CONTRACTOR is providing goods or
4 performing services under this agreement. A self-dealing transaction shall mean a transaction to
5 which the CONTRACTOR is a party and in which one or more of its directors has a material
6 financial interest. Members of the Board of Directors shall disclose any self-dealing transactions
7 that they are a party to by completing and signing a Self-Dealing Transaction Disclosure Form,
8 attached hereto as Exhibit B and incorporated herein by reference, and submitting it to the
9 COUNTY prior to commencing with the self-dealing transaction or immediately thereafter.

10 17. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement
11 between the CONTRACTOR and COUNTY with respect to the subject matter hereof and
12 supersedes all previous Agreement negotiations, proposals, commitments, writings,
13 advertisements, publications, and understanding of any nature whatsoever unless expressly
14 included in this Agreement.


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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first hereinabove written.

CONTRACTOR


(Authorized Signature)

Hilarie Aitken, CEO
Print Name & Title
600 Naches Ave SW
Renton, WA 98057
Mailing Address

COUNTY OF FRESNO


Steve Brandau,
Chairman of the Board of Supervisors of
the County of Fresno

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

By: 

Deputy

FOR ACCOUNTING USE ONLY:
Fund No: 1060
Subclass: 10000
ORG No: 89250200
Account No: 7185

EXHIBIT A

CONTRACTOR will provide the following Administrative Services for the COUNTY's Medicare retirees (Post-65 retirees):

1. Process retirees' enrollment/billing paperwork once received from COUNTY;
2. Track benefits elected by retirees and covered family members;
3. Send retirees introductory letter containing payment options (e.g. payment coupons for check or money order, ACH for auto-payment, credit cards);
4. Track and collect retirees' monthly premiums;
5. Remit premiums to COUNTY directly (CONTRACTOR does not send to carriers);
6. Notify COUNTY of all retiree terminations;
7. Store COUNTY benefit plan rules, including eligibility restrictions, waiting periods, volume and age calculation frequencies;
8. Maintain standard reporting system, including various census, discrepancy, enrollment, and audit reports.

EXHIBIT "B"

SELF-DEALING TRANSACTION DISCLOSURE FORM

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

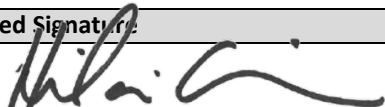
"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"

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

INSTRUCTIONS

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

EXHIBIT "B"

(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
N/A			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):			
N/A			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):			
N/A			
(5) Authorized Signature:			
Signature:		Date:	11/19/2021