

# AGREEMENT

THIS AGREEMENT is made and entered into effective January 1, 2017, by and between the COUNTY OF FRESNO, and Chimienti & Associates Insurance Services whose address is 3400 W. Mineral King Ave., Suite B, Visalia, CA 93291, hereinafter referred to as "CONTRACTOR".

## WITNESSETH:

### 1. OBLIGATIONS OF THE CONTRACTOR

A. The CONTRACTOR will provide health benefit administrative services as listed in Exhibit "A".

B. The CONTRACTOR will provide additional services for the COUNTY OF FRESNO as listed in Exhibit "B".

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

- 1) Necessary training to assist the COUNTY OF FRESNO in utilizing the CONTRACTOR'S services.
- 2) Furnish the COUNTY OF FRESNO with any available information from the CONTRACTOR's records which the COUNTY OF FRESNO may need.
- 3) Resolve any issues raised by COUNTY OF FRESNO with due diligence. Any questionable enrollment or service requests will be referred to COUNTY OF FRESNO for clarification

### 2. OBLIGATIONS OF THE COUNTY OF FRESNO

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

B. The COUNTY OF FRESNO is solely responsible for the accuracy and integrity of COUNTY OF FRESNO data.

### 3. TERM

This Agreement shall become effective on the 1st day of January, 2017 and

1 shall terminate on the 31<sup>st</sup> day of December, 2017.

2 4. TERMINATION

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

7 B. Breach of Contract - The COUNTY OF FRESNO may immediately  
8 suspend or terminate this Agreement in whole or in part, where in the determination of the  
9 COUNTY OF FRESNO there is:

- 10 1) An illegal or improper use of funds;  
11 2) A failure to comply with any term of this Agreement;  
12 3) A substantially incorrect or incomplete report submitted to the  
13 COUNTY OF FRESNO;  
14 4) Improperly performed service.

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

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

26 5. COMPENSATION/INVOICING

27 COUNTY OF FRESNO agrees to pay CONTRACTOR and CONTRACTOR  
28 agrees to receive compensation as follows: \$5.20 per retiree per month (prpm) for each Eligible



1 Retiree (see Exhibit B).

2 6. OWNERSHIP OF DATA

3 All data delivered by the COUNTY OF FRESNO to CONTRACTOR, or which is  
4 created by either party for the COUNTY OF FRESNO in connection with the performance of this  
5 Agreement shall be the exclusive property of the COUNTY OF FRESNO. CONTRACTOR shall  
6 be the custodian of such data and will immediately make such data available to the COUNTY OF  
7 FRESNO upon request during normal working hours. CONTRACTOR shall return all  
8 personnel/payroll raw data collected or generated in connection with the performance of the  
9 Agreement within thirty (30) days of the termination of this Agreement and shall not access said  
10 data for any purpose other than in connection with the performance of this Agreement.

11 7. CONFIDENTIALITY

12 All data, programs and other materials provided to CONTRACTOR by  
13 COUNTY OF FRESNO, Eligible Employees and/or Participants in connection with this  
14 Agreement shall be deemed confidential as to the COUNTY OF FRESNO and/or such Eligible  
15 Employees and/or Participants. Neither the CONTRACTOR, its officers, agents nor employees  
16 shall disclose such data to any third party without the express prior written consent of the  
17 COUNTY OF FRESNO, the affected Eligible Employees and/or Participants.

18 A. CONTRACTOR shall protect confidential information from inadvertent  
19 disclosure to any third party in the same manner that they protect their own confidential  
20 information, unless such disclosure is required in response to a validly issued subpoena or other  
21 process of law. The provisions of this section shall continue to survive, upon completion of this  
22 Agreement.

23 B. The COUNTY OF FRESNO agrees to provide CONTRACTOR (or its  
24 authorized agents or subcontractors), personnel and payroll information including, but not limited  
25 to, employee names, addresses, phone numbers, salary, certain pay deductions and other  
26 personnel and payroll data base information on all of its PLAN eligible employees for the sole and  
27 exclusive purpose of conducting automated employee eligibility administration for client.

28 C. CONTRACTOR agrees to keep in confidence all personnel and payroll



1 information provided by COUNTY OF FRESNO and its clients. CONTRACTOR shall treat such  
2 information with at least the same degree of care as CONTRACTOR exercises toward its own  
3 employees' personnel and payroll information.

4 8. INDEPENDENT CONTRACTOR

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

15 CONTRACTOR and COUNTY OF FRESNO shall comply with all applicable  
16 provisions of law and the rules and regulations, if any, of governmental authorities having  
17 jurisdiction over matters the subject thereof.

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

27 9. MODIFICATION

28 Any matters of this Agreement may be modified from time to time by the written

1 consent of all the parties without, in any way, affecting the remainder.

2 10. NON-ASSIGNMENT

3 CONTRACTOR currently sub-contracts with Administrative Solutions, Inc.  
4 (ASI) and Hourglass Systems, Inc. (HSI) for some services provided through this agreement. This  
5 is agreed upon by CONTRACTOR and COUNTY OF FRESNO and incorporated into this  
6 Agreement. COUNTY OF FRESNO is an express third party beneficiary of services provided by  
7 ASI and HSI. Neither party shall further assign, transfer or sub-contract this Agreement nor their  
8 rights or duties under this Agreement without the prior written consent of the other party.

9 11. HOLD HARMLESS

10 CONTRACTOR agrees to indemnify, save, hold harmless, and at COUNTY  
11 OF FRESNO'S request, defend the COUNTY OF FRESNO, its officers, agents, and employees  
12 from any and all costs and expenses, damages, liabilities, claims, and losses occurring or  
13 resulting to COUNTY OF FRESNO in connection with the performance, or failure to perform, by  
14 CONTRACTOR, its officers, agents, or employees under this Agreement, and from any and all  
15 costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person,  
16 firm, or corporation who may be injured or damaged by the performance, or failure to perform,  
17 of CONTRACTOR, its officers, agents, or employees under this Agreement.

18 12. INSURANCE

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

24 A. Commercial General Liability - Commercial General Liability Insurance  
25 with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual  
26 aggregate of Two Million Dollars (\$2,000,000). This policy shall be issued on a per occurrence  
27 basis.

28 B. Automobile Liability - Comprehensive Automobile Liability Insurance with



1 limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per  
2 person, Five Hundred Thousand Dollars (\$500,000.00) per accident and for property damages of  
3 not less than Fifty Thousand Dollars (\$50,000.00), or such coverage with a combined single limit  
4 of Five Hundred Thousand Dollars (\$500,000.00). Coverage should include owned and non-  
5 owned vehicles used in connection with this Agreement.

6 C. Professional Liability - If CONTRACTOR employs licensed professional  
7 staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance  
8 with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million  
9 Dollars (\$3,000,000.00) annual aggregate.

10 D. Worker's Compensation - A policy of Worker's Compensation insurance as  
11 may be required by the California Labor Code.

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

20 Within thirty (30) days from the date CONTRACTOR signs and executes this  
21 Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated  
22 above for all of the foregoing policies, as required herein, to the COUNTY OF FRESNO, (Paul  
23 Nerland, Director of Human Resources, 2220 Tulare Street, 16<sup>th</sup> Floor, Fresno, CA 93721), stating  
24 that such insurance coverage have been obtained and are in full force; that the COUNTY OF  
25 FRESNO, officers, agents and employees will not be responsible for any premiums on the  
26 policies; that such Commercial General Liability insurance names the COUNTY OF FRESNO, its  
27 officers, agents and employees, individually and collectively, as additional insured, but only insofar  
28 as the operations under this Agreement are concerned; that such coverage for additional insured



1 shall apply as primary insurance and any other insurance, or self-insurance, maintained by  
2 COUNTY OF FRESNO, its officers, agents and employees, shall be excess only and not  
3 contributing with insurance provided under CONTRACTOR's policies herein; and that this  
4 insurance shall not be cancelled or changed without a minimum of thirty (30) days advance,  
5 written notice given to COUNTY OF FRESNO.

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

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

12 13. AUDITS AND INSPECTIONS

13 The CONTRACTOR shall at any time during business hours, and as often as  
14 the COUNTY OF FRESNO may deem necessary, make available to the COUNTY OF FRESNO  
15 for examination all of its records and data with respect to the matters covered by this Agreement.  
16 The CONTRACTOR shall, upon request by the COUNTY OF FRESNO, permit the COUNTY OF  
17 FRESNO to audit and inspect all of such records and data necessary to ensure CONTRACTOR'S  
18 compliance with the terms of this Agreement.

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

22 14. NOTICES

23 The persons and their addresses having authority to give and receive notices  
24 under this Agreement include the following:

25 COUNTY OF FRESNO

26 Paul Nerland,  
27 Director of Human Resources  
28 2220 Tulare Street, 16<sup>th</sup> Floor  
Fresno, CA 93721

CONTRACTOR

Toney Chimienti, President  
Chimienti & Associates Insurance Svcs  
3400 W. Mineral King, Suite B  
Visalia, CA 93291

1  
2 Any and all notices between the COUNTY OF FRESNO and the  
3 CONTRACTOR provided for or permitted under this Agreement or by law shall be in writing and  
4 shall be deemed duly served when personally delivered to one of the parties, or in lieu of such  
5 personal services, when deposited in the United States Mail, postage prepaid, addressed to such  
6 party.

7 15. GOVERNING LAW

8 Venue for any action arising out of or related to this Agreement shall only be in  
9 Fresno County, California.

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

12 16. ENTIRE AGREEMENT

13 This Agreement constitutes the entire agreement between the CONTRACTOR  
14 and COUNTY OF FRESNO with respect to the subject matter hereof and supersedes all previous  
15 Agreement negotiations, proposals, commitments, writings, advertisements, publications, and  
16 understanding of any nature whatsoever unless expressly included in this Agreement.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1 **EXHIBIT "A"**

2 CONTRACTOR will provide the following Administrative Services for the COUNTY  
3 OF FRESNO:

4 1. Benefits Management System

- 5 a. Maintains eligible employee data;
- 6 b. Tracks dependent data with relationship links to primary employee record;
- 7 c. Stores COUNTY OF FRESNO benefit plan rules, including eligibility restrictions,
- 8 waiting periods, volume and age calculation frequencies;
- 9 d. Maintains benefit plan coverage and rate history;
- 10 e. Provides benefit plan filtering to designated divisions and/or employee classes;
- 11 f. Tracks benefits elected by employees and family members covered;
- 12 g. Benefit plan rate and coverage calculation engine;
- 13 h. Benefit accounting and billing system;
- 14 i. Payroll deduction tracking and payroll discrepancy reporting;
- 15 j. Standard reporting system, including various census, discrepancy, enrollment, and
- 16 audit reports;
- 17 k. Maintain history logs of changes made to member records, billing records, and
- 18 coverage records.

19 2. Electronic Data Interface (EDI) System

- 20 a. Exports various eligibility file formats, including HIPAA 834;
- 21 b. Export encryption using PGP;
- 22 c. Export transfers available through file push via FTP or Carrier pickup via FTP.

23 3. Single Source Billing Service.

24 CONTRACTOR will notify the COUNTY OF FRESNO at least 90 days in advance of the date  
25 of any proposed change in service providers or change in status of any such service provider,  
26 including, but not limited to change in ownership, key personnel, principals, or financial  
27 condition. COUNTY OF FRESNO is an express third party beneficiary of any outside service  
28 providers retained by CONTRACTOR under this Agreement.

1  
2 **EXHIBIT "B"**

3 CONTRACTOR will provide COUNTY OF FRESNO with the following services,  
4 including direct billing service for Core Benefit Plans.

5 1. CONTRACTOR agrees to perform Retiree Eligibility & Billing Services for COUNTY OF  
6 FRESNO Retirees. Compensation to CONTRACTOR for these Services, as it pertains  
7 to Retirees, will be as follows:

- 8 a. Retirees enrolled in the Hartford plan will have a fee of \$5.20 per retiree per  
9 month. These fees will be forwarded monthly to CONTRACTOR.  
10 b. Retirees enrolled in the Kaiser Medicare plans will have a fee of \$5.20 per retiree  
11 per month. These fees will be forwarded monthly to CONTRACTOR.  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



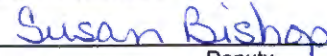
IN WITNESS WHEREOF, the parties hereto have executed this Agreement (Chimienti & Associates – Plan Year 2017).

COUNTY OF FRESNO

  
\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

BERNICE E. SEIDEL, Clerk  
Board of Supervisors

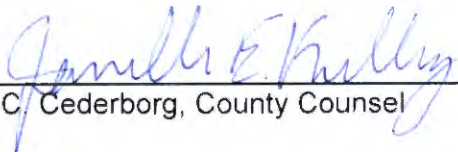
By   
\_\_\_\_\_  
Deputy

DATE: 3-22-17

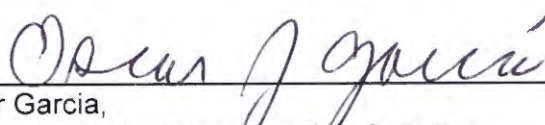
REVIEWED & RECOMMENDED FOR APPROVAL

  
\_\_\_\_\_  
Paul Nerland, Director of Human Resources

APPROVED AS TO LEGAL FORM

  
\_\_\_\_\_  
Daniel C. Cederborg, County Counsel

APPROVED AS TO ACCOUNTING FORM

  
\_\_\_\_\_  
Oscar Garcia,  
Auditor-Controller/Treasurer-Tax Collector

FOR ACCOUNTING USE ONLY:

Fund No: 1060  
Subclass: 10000  
ORG No: 89250200  
Account No: 7185