

**MASTER AGREEMENT**

This Agreement is made and entered into this 10th day of July, 2018, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and each SCHOOL DISTRICT listed in Exhibit A, attached hereto and by this reference incorporated herein, and collectively hereinafter referred to as "SCHOOL DISTRICTS", and such additional SCHOOL DISTRICTS as may, from time to time during the term of this Agreement, be added by COUNTY, with the Department of Behavioral Health (DBH) Director or designee approval. Reference in this Agreement to "parties" shall be understood to refer to COUNTY and each individual SCHOOL DISTRICT, unless otherwise specified.

**WITNESSETH:**

WHEREAS, COUNTY, through its DBH, recognizes the need to provide COUNTY DBH staff, and contracted provider staff, for both Metropolitan (metro) and Rural areas to provide services related to mental well-being for children and youth enrolled in school grades, Kindergarten through High School; and

WHEREAS, children/youth with Serious Emotional Disturbance (SED) who also experience co-occurring mental health and alcohol/substance abuse and/or discipline issues will be included among those served.

WHEREAS, the SCHOOL DISTRICTS are public schools districts which also coordinate their own mental health services within the jurisdictional boundaries specific to each SCHOOL DISTRICT.

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

**1. DEFINITIONS**

A. For purposes of this Agreement, the parties agree that the definitions set forth at California Code of Regulations (CCR) Title 9., Division 1, Ch. 1., Article 1, §1810.100 and §1810.247 shall govern the meaning of all terms utilized in this Agreement.

1. "Children's mental health services" shall be defined as outpatient mental health services, case management, crisis intervention, and rehabilitative services. This includes individual, group and family therapy.

2. “Pupils” shall refer to all children with mental health needs who are eligible or are receiving children’s mental health services from or through the COUNTY at schools within the jurisdictional boundaries of the SCHOOL DISTRICTS. But, this definition shall exclude pupils as defined in CCR Title 2, Division 9, Chapter 1, Article 1, §60010 and §60020 for which mental health services are required to be provided or arranged by the school as a service component of a pupil’s Individualized Education Program (IEP).

3. “Medically necessary mental health services” refer to the criteria in accordance with CCR, Title 9, Division 1, Chapter 11, Article 2, §1830.205.

## **2. OBLIGATIONS OF SCHOOL DISTRICTS AND COUNTY**

### **A. SCHOOL DISTRICTS shall provide the following:**

1. Identify an educational coordinator to work collaboratively with COUNTY DBH staff to identify school sites to be served;
2. Provide confidential office/space large enough to conduct individual and family sessions;
3. Provide a telephone in the confidential office/space used by DBH staff (if no phones are available, a hand-held two-way radio will be provided); and
4. Generate client referrals for COUNTY DBH staff.

### **B. COUNTY shall provide the following:**

1. Work collaboratively with SCHOOL DISTRICT staff to assign COUNTY DBH staff, and its contracted providers, to provide mental health services to students;
2. Monitor the number and outcome of referrals and students engaged in mental health services; and
3. Participate in meetings with SCHOOL DISTRICT staff to discuss student progress toward meeting mental health treatment goals and access other supportive services that may be needed.

## **3. COVERED SERVICES**

1           A.     The parties agree to the terms and conditions set forth in Exhibit B “Inter-  
2 Agency Agreement – Purpose and Intent” attached hereto and by this reference incorporated herein  
3 and made part of this Agreement.

4           B.     SCHOOL DISTRICTS agree that mental health services provided by COUNTY,  
5 and its contracted providers, under this Agreement are not intended to serve Special Education  
6 students determined to be “Emotionally Disturbed” as defined by the Individuals with Disability Act;  
7 have an Individualized Education Program (IEP); and that COUNTY is not providing these mental  
8 health services as a contractor of SCHOOL DISTRICTS. Each SCHOOL DISTRICT shall be solely  
9 responsible for the mental health treatment requirements of the IEP.

10           **4.     TERM**

11           This Agreement shall become effective on the 1<sup>st</sup> day of July, 2018 and shall terminate  
12 on the 30<sup>th</sup> day of June, 2021.

13           This Agreement may be extended for two (2) additional twelve (12) month periods upon  
14 the written approval of both parties not later than sixty (60) days prior to the close of the then current  
15 Agreement term. The COUNTY’s DBH Director or designee is authorized to execute such written  
16 approval on behalf of COUNTY based on CONTRACTOR’s satisfactory performance.

17           **5.     TERMINATION**

18           A.     Non-Allocation of Funds - The terms of this Agreement, and the services to be  
19 provided thereunder, are contingent on the approval of funds by the appropriating government agency.  
20 Should sufficient funds not be allocated, the services provided may be modified, or this Agreement  
21 terminated at any time by giving the SCHOOL DISTRICTS sixty (60) days advance written notice.

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

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

1 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any  
2 breach of this Agreement or any default which may then exist on the part of any SCHOOL DISTRICT.  
3 Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to  
4 the breach or default. The COUNTY shall have the right to demand of the SCHOOL DISTRICT the  
5 repayment to the COUNTY of any funds disbursed to the CONTRACTOR under this Agreement,  
6 which in the judgment of the COUNTY were not expended in accordance with the terms of this  
7 Agreement. The CONTRACTOR shall promptly refund any such funds upon demand.

8 C. Without Cause - Under circumstances other than those set forth above, this  
9 Agreement may be terminated by SCHOOL DISTRICT or COUNTY or COUNTY's DBH Director, or  
10 designee, upon the giving of sixty (60) days advance written notice of an intention to terminate.

11 **6. COMPENSATION**

12 The services and obligations conducted pursuant to the terms and conditions of this  
13 Agreement shall be performed without payment of any monetary consideration by any of the parties,  
14 one to the other.

15 **7. INDEPENDENT CONTRACTOR**

16 In performance of the work, duties, and obligations assumed by SCHOOL DISTRICT  
17 under this Agreement, it is mutually understood and agreed that SCHOOL DISTRICT, including any  
18 and all of SCHOOL DISTRICT'S officers, agents, and employees will at all times be acting and  
19 performing as an independent contractor, and shall act in an independent capacity and not as an  
20 officer, agent, servant, employee, joint venturer, partner, or associate of the COUNTY. Furthermore,  
21 COUNTY, and its contracted providers, shall have no right to control or supervise or direct the  
22 manner or method by which SCHOOL DISTRICT shall perform its work and function. However,  
23 COUNTY shall retain the right to administer this Agreement so as to verify that each SCHOOL  
24 DISTRICT is performing its obligations in accordance with the terms and conditions thereof.  
25 SCHOOL DISTRICTS, COUNTY, and COUNTY's contracted providers, shall comply with all  
26 applicable provisions of law and the rules and regulations, if any, of governmental authorities having  
27 jurisdiction over matters which are directly or indirectly the subject of this Agreement.

28 Because of their status as independent contractors, SCHOOL DISTRICTS shall have

absolutely no right to employment rights and benefits available to COUNTY employees. SCHOOL DISTRICTS shall be solely liable and responsible for providing to, or on behalf of, their employees all legally-required employee benefits. In addition, SCHOOL DISTRICTS shall be solely responsible and save COUNTY harmless from all matters relating to payment of SCHOOL DISTRICTS' employees, including compliance with Social Security, withholding, and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, SCHOOL DISTRICTS may be providing services to others unrelated to the COUNTY or to this Agreement.

**8. MODIFICATION**

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

It is mutually understood that the parties agree to review this Agreement annually and to revise this Agreement as appropriate so as to assure services are delivered to the satisfaction of the parties.

**9. ADDITIONS/DELETIONS OF SCHOOLS**

COUNTY's DBH Director, or designee, reserves the right at any time during the term of this Agreement to add SCHOOL DISTRICTS to Exhibit A attached hereto. These same provisions shall apply to the deletion of any SCHOOL DISTRICTS contained in Exhibit A attached hereto, except that deletions shall be by mutual written agreement between COUNTY's DBH Director and the particular SCHOOL DISTRICTS to be deleted or shall be in accordance with the provisions of Paragraph Four (4) of this Agreement.

**10. NON-ASSIGNMENT**

Neither party shall assign, transfer or subcontract this Agreement nor their rights or duties under this Agreement without the prior written consent of the other party.

**11. HOLD-HARMLESS**

Each SCHOOL DISTRICT agrees to indemnify, save, hold harmless, and at COUNTY's request, defend the COUNTY, its officers, agents and employees from any and all costs and expenses, including attorney fees and court costs, damages, liabilities, claims and losses occurring or resulting to COUNTY in connection with the performance, or failure to perform, by each SCHOOL DISTRICT, its

1 officers, agents or employees under this Agreement, and from any and all costs and expenses, including  
2 attorney fees and court costs, damages, liabilities, claims and losses occurring or resulting to any  
3 person, firm or corporation who may be injured or damaged by the performance, or failure to perform,  
4 of SCHOOL DISTRICT, its officers, agents or employees under this Agreement.

5 Each SCHOOL DISTRICT agrees to indemnify COUNTY for Federal, State of California  
6 and/or local audit exceptions resulting from noncompliance herein on the part of the SCHOOL  
7 DISTRICT.

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

## 16 **12. CONFIDENTIALITY**

17 All services performed by SCHOOL DISTRICTS under this Agreement shall be in strict  
18 conformance with all applicable Federal, State of California and/or local laws and regulations relating  
19 to confidentiality.

20 Confidentiality of Pupil Records - The COUNTY, and its contracted providers, agree to  
21 obtain the written consent of the pupil's parent/legal guardian or other person lawfully charged with the  
22 care and custody of the pupil to allow the exchange of necessary educational and medical information  
23 while insuring the confidentiality of each pupil's record. A copy of the parent/legal guardian's written  
24 consent form will be kept on file at COUNTY's DBH client file. No Protected Health Information  
25 (PHI) or other confidential information shall be disclosed by COUNTY, or its contracted providers, to  
26 SCHOOL DISTRICTS without such written consent, or in the event that such written consent is  
27 withdrawn.

## 28 **13. REFERENCES TO LAWS AND RULES**

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

4 **14. COMPLIANCE WITH STATE REQUIREMENTS**

5 SCHOOL DISTRICTS recognize that COUNTY operates its mental health programs  
6 under an agreement with the State of California Department of Health Care Services, and that under  
7 said agreement the State imposes certain requirements on COUNTY and its SCHOOL DISTRICTS.  
8 SCHOOL DISTRICTS shall adhere to all State Requirements, including those identified in Exhibit C  
9 “State Mental Health Requirements”, attached hereto and by this reference incorporated herein.

10 **15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**

11 A. The parties to this Agreement shall be in strict conformance with all applicable  
12 Federal and State of California laws and regulations, including but not limited to Sections 5328, 10850,  
13 and 14100.2 *et seq.* of the Welfare and Institutions Code, Sections 2.1 and 431.300 *et seq.* of Title 42,  
14 Code of Federal Regulations (CFR), Section 56 *et seq.* of the California Civil Code, Sections 11977  
15 and 11812 of Title 22 of the California Code of Regulations, and the Health Insurance Portability and  
16 Accountability Act (HIPAA), including but not limited to Section 1320 D *et seq.* of Title 42, United  
17 States Code (USC) and its implementing regulations, including, but not limited to Title 45, CFR,  
18 Sections 142, 160, 162, and 164, and The Health Information Technology for Economic and Clinical  
19 Health Act (HITECH) regarding the confidentiality and security of patient information, and the Genetic  
20 Information Nondiscrimination Act (GINA) of 2008 regarding the confidentiality of genetic  
21 information.

22 Except as otherwise provided in this Agreement, SCHOOL DISTRICTS, as a  
23 Business Associate of COUNTY, may use or disclose Protected Health Information (PHI) to perform  
24 functions, activities or services for or on behalf of COUNTY, as specified in this Agreement, provided  
25 that such use or disclosure shall not violate the HIPAA, USC 1320d *et seq.* The uses and disclosures of  
26 PHI may not be more expansive than those applicable to COUNTY, as the “Covered Entity” under the  
27 HIPAA Privacy Rule (45 CFR 164.500 *et seq.*), except as authorized for management, administrative or  
28 legal responsibilities of the Business Associate.

1           B.       SCHOOL DISTRICTS shall protect, from unauthorized access, use, or  
2 disclosure of names and other identifying information concerning persons receiving services pursuant  
3 to this Agreement, except where permitted in order to carry out data aggregation purposes for health  
4 care operations [45 CFR Sections 164.504 (e)(2)(i), 164.504 (3)(2)(ii)(A), and 164.504 (e)(4)(i)]- This  
5 pertains to any and all persons receiving services pursuant to a COUNTY funded program. This  
6 requirement applies to electronic PHI. SCHOOL DISTRICTS shall not use such identifying  
7 information for any purpose other than carrying out SCHOOL DISTRICTS obligations under this  
8 Agreement.

9           C.       SCHOOL DISTRICTS shall not disclose any such identifying information to any  
10 person or entity, except as otherwise specifically permitted by this Agreement, authorized by law, or  
11 authorized by the client/patient.

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

15           E.       SCHOOL DISTRICTS shall provide access, at the request of COUNTY, and in  
16 the time and manner designated by COUNTY, to PHI in a designated record set (as defined in 45 CFR  
17 Section 164.501), to an individual or to COUNTY in order to meet the requirements of 45 CFR  
18 Section 164.524 regarding access by individuals to their PHI.

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

22                   SCHOOL DISTRICTS shall provide to COUNTY or to an individual, in a time and  
23 manner 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 in  
25 accordance with 45 CFR Section 164.528.

26           F.       SCHOOL DISTRICTS shall report to COUNTY, in writing, any knowledge or  
27 reasonable belief that there has been unauthorized access, viewing, use, disclosure, or breach of  
28 Protected Information not permitted by this Agreement, and any breach of unsecured PHI of which it



1 becomes aware, immediately and without reasonable delay and in no case later than two (2) business  
2 days of discovery. Immediate notification shall be made to COUNTY's Information Security Officer  
3 and Privacy Officer and COUNTY's DBH 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, used,  
6 disclosed, or breached. SCHOOL DISTRICTS shall take prompt corrective action to cure any  
7 deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal  
8 and State Laws and regulations. SCHOOL DISTRICTS shall investigate such breach and is  
9 responsible for all notifications required by law and regulation or deemed necessary by COUNTY and  
10 shall provide a written report of the investigation and reporting required to COUNTY's Information  
11 Security Officer and Privacy Officer and COUNTY's DBH HIPAA Representative. This written  
12 investigation and description of any reporting necessary shall be postmarked within the thirty (30)  
13 working days of the discovery of the breach to the addresses below:

14 County of Fresno	County of Fresno	County of Fresno
15 Department of Behavioral Health	Dept. of Public Health	Information Technology Services
HIPAA Representative	Privacy Officer	Information Security Officer
16 (559) 600-6798	(559) 600-6405	(559) 600-5800
3147 N. Millbrook Ave	P.O. Box 11867	2048 N. Fine Ave
17 Fresno, CA 93703	Fresno, CA 93775	Fresno, CA 93727

18 G. Each SCHOOL DISTRICT 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 SCHOOL DISTRICTS on behalf of COUNTY, available to the United States Department of Health  
21 and Human Services upon demand.

22 H. Safeguards

23 SCHOOL DISTRICTS shall implement administrative, physical, and technical  
24 safeguards as required by 45 CFR 164.308, 164.310, and 164.312 that reasonably and appropriately  
25 protect the confidentiality, integrity, and availability of PHI, including electronic PHI, that it creates,  
26 receives, maintains or transmits on behalf of COUNTY; and to prevent access, use or disclosure of PHI  
27 other than as provided for by this Agreement. SCHOOL DISTRICTS shall develop and maintain a  
28 written information privacy and security program that includes administrative, technical and physical

1 safeguards appropriate to the size and complexity of each SCHOOL DISTRICT'S operations and the  
2 nature and scope of its activities. Upon COUNTY's request, SCHOOL DISTRICTS shall provide  
3 COUNTY with information concerning such safeguards.

4 SCHOOL DISTRICTS shall implement strong access controls and other security  
5 safeguards and precautions in order to restrict logical and physical access to confidential, personal (e.g.,  
6 PHI) or sensitive data to authorized users only. Said safeguards and precautions shall include the  
7 following administrative and technical password controls for all systems used to process or store  
8 confidential, personal, or sensitive data:

9 1. Passwords must not be:

- 10 a. Shared or written down where they are accessible or recognizable  
11 by anyone else; such as taped to computer screens, stored under keyboards, or visible in a work area;  
12 b. A dictionary word; or  
13 c. Stored in clear text

14 2. Passwords must be:

- 15 a. Eight (8) characters or more in length;  
16 b. Changed every ninety (90) days;  
17 c. Changed immediately if revealed or compromised; and  
18 d. Composed of characters from at least three of the following four  
19 groups from the standard keyboard:

- 20 1) Upper case letters (A-Z);  
21 2) Lowercase letters (a-z);  
22 3) Arabic numerals (0 through 9); and  
23 4) Non-alphanumeric characters (punctuation symbols).

24 SCHOOL DISTRICTS shall implement the following security controls on each  
25 workstation or portable computing device (e.g., laptop computer) containing confidential,  
26 personal, or sensitive data:

- 27 1. Network-based firewall and/or personal firewall;  
28 2. Continuously updated anti-virus software; and

1                   3.       Patch management process including installation of all operating  
2 system/software vendor security patches.

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

7                   SCHOOL DISTRICTS shall not transmit confidential, personal, or sensitive data  
8 via e-mail or other internet transport protocol unless the data is encrypted by a solution that has been  
9 validated by the National Institute of Standards and Technology (NIST) as conforming to the Advanced  
10 Encryption Standard (AES) Algorithm.

11                   I.       Mitigation of Harmful Effects

12                   SCHOOL DISTRICTS shall mitigate, to the extent practicable, any harmful effect  
13 that is known to SCHOOL DISTRICTS of an unauthorized access, viewing, use, disclosure, or breach  
14 of PHI by SCHOOL DISTRICTS or their Subcontractors in violation of the requirements of these  
15 provisions.

16                   J.       CONTRACTORS'S SUBCONTRACTORS

17                   SCHOOL DISTRICTS shall ensure that any of their contractors, including  
18 Subcontractors, if applicable, to whom SCHOOL DISTRICTS provide PHI received from or created or  
19 received by SCHOOL DISTRICTS on behalf of COUNTY, agree to the same restrictions and  
20 conditions that apply to SCHOOL DISTRICTS with respect to such PHI; and to incorporate, when  
21 applicable, the relevant provisions of these provisions into each subcontract or sub-award to such  
22 agents or SCHOOL DISTRICTS.

23                   K.       Employee Training and Discipline

24                   SCHOOL DISTRICTS shall train and use reasonable measures to ensure  
25 compliance with the requirements of these provisions by employees who assist in the performance of  
26 functions or activities on behalf of COUNTY under this Agreement and use or disclose PHI and  
27 discipline such employees who intentionally violate any provisions of these provisions, including  
28 termination of employment.

1 L. Termination for Cause

2 Upon COUNTY's knowledge of a material breach of these provisions by a SCHOOL  
3 DISTRICT, COUNTY shall either:

4 1. Provide an opportunity for SCHOOL DISTRICT to cure the breach or  
5 end the violation and terminate this Agreement if SCHOOL DISTRICT does not cure the breach or end  
6 the violation within the time specified by COUNTY; or

7 2. Immediately terminate this Agreement if SCHOOL DISTRICT has  
8 breached a material term of these provisions and cure is not possible.

9 3. If neither cure nor termination is feasible, the COUNTY Privacy Officer  
10 shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

11 M. Judicial or Administrative Proceedings

12 COUNTY may terminate this Agreement in accordance with the terms and  
13 conditions of this Agreement as written hereinabove, if: (1) A SCHOOL DISTRICTS is found guilty  
14 in a criminal proceeding for a violation of the HIPAA Privacy or Security Laws or the HITECH Act; or  
15 (2) a finding or stipulation that the SCHOOL DISTRICT has violated a privacy or security standard or  
16 requirement of the HITECH Act, HIPAA; or other security or privacy laws in an administrative or civil  
17 proceeding in which the SCHOOL DISTRICT is a party.

18 N. Effect of Termination

19 Upon termination or expiration of this Agreement for any reason, SCHOOL  
20 DISTRICT shall return or destroy all PHI received from COUNTY (or created or received by  
21 SCHOOL DISTRICTS on behalf of COUNTY) that SCHOOL DISTRICT still maintains in any form,  
22 and shall retain no copies of such PHI. If return or destruction of PHI is not feasible, it shall continue  
23 to extend the protections of these provisions to such information, and limit further use of such PHI to  
24 those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to  
25 PHI that is in the possession of SCHOOL DISTRICTS or agents, if applicable, of SCHOOL  
26 DISTRICTS. If SCHOOL DISTRICT destroys the PHI data, a certification of date and time of  
27 destruction shall be provided to the COUNTY by SCHOOL DISTRICTS.

28 O. Disclaimer

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

P. Amendment

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

Q. No Third-Party Beneficiaries

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

R. Interpretation

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

S. Regulatory References

A reference in the terms and conditions of these provisions to a section in the

1 HIPAA regulations means the section as in effect or as amended.

2 T. Survival

3 The respective rights and obligations of SCHOOL DISTRICTS as stated in this  
4 Section shall survive the termination or expiration of this Agreement.

5 U. No Waiver of Obligations

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

9 **16. NON-DISCRIMINATION**

10 During the performance of this Agreement SCHOOL DISTRICTS shall not unlawfully  
11 discriminate against any employee or applicant for employment, or recipient of services, because of  
12 race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age  
13 or gender, pursuant to all applicable State of California and Federal statutes and regulations.

14 **17. SEPARATE AGREEMENT**

15 It is mutually understood by the parties that this Agreement does not, in any way, create  
16 a joint venture among SCHOOL DISTRICTS. By execution of this Agreement, SCHOOL  
17 DISTRICTS understand that a separate Agreement is formed between each individual SCHOOL  
18 DISTRICT and COUNTY.

19 **18. ENGLISH PROFICIENCY**

20 COUNTY shall provide interpreting and translation services to persons participating in  
21 COUNTY mental health services who have limited or no English language proficiency, including  
22 services to persons who are deaf or blind. Interpreter and translation services shall be provided as  
23 necessary to allow such participants meaningful access to the program, services and benefits provided  
24 by COUNTY, and its contracted providers. Interpreter and translation services, including translation of  
25 COUNTY "vital documents" (those documents that contain information that is critical for accessing  
26 COUNTY services or are required by law) shall be provided to participants at no cost to the participant.  
27 COUNTY, and its contracted providers, shall ensure that any employees, agents, schools, or partners  
28 who interpret or translate for a program participant, or who directly communicate with a program

1 participant in a language other than English, demonstrate proficiency in the participant's language and  
2 can effectively communicate any specialized terms and concepts peculiar to COUNTY mental health  
3 services.

4 **19. DISCLOSURE – CRIMINAL HISTORY AND CIVIL ACTIONS**

5 SCHOOL DISTRICTS are required to disclose if any of the following conditions apply  
6 to them, their owners, officers, corporate managers and partners:

7 A. Within the three-year period preceding the Agreement award, they have been  
8 convicted of, or had a civil judgment rendered against them for:

9 1. Fraud or a criminal offense in connection with obtaining, attempting to  
10 obtain, or performing a public (federal, state, or local) transaction or contract under a public  
11 transaction;

12 2. Violation of a federal or state antitrust statute;

13 3. Embezzlement, theft, forgery, bribery, falsification, or destruction of  
14 records; or

15 4. False statements or receipt of stolen property.

16 B. Within a three-year period preceding their Agreement award, they have had a  
17 public transaction (federal, state, or local) terminated for cause or default.

18 Disclosure of the above information will not automatically eliminate SCHOOL  
19 DISTRICTS from further business consideration. The information will be considered as part of the  
20 determination of whether to continue and/or renew the contract and any additional information or  
21 explanation that a SCHOOL DISTRICTS elects to submit with the disclosed information will be  
22 considered. If it is later determined that the SCHOOL DISTRICTS failed to disclose required  
23 information, any contract awarded to such SCHOOL DISTRICTS may be immediately voided and  
24 terminated for material failure to comply with the terms and conditions of the award.

25 SCHOOL DISTRICTS must sign an appropriate "Certification Regarding Debarment,  
26 Suspension, and Other Responsibility Matters", Exhibit D attached hereto and by this reference  
27 incorporated herein. Additionally, SCHOOL DISTRICTS must immediately advise the COUNTY in  
28 writing if, during the term of the agreement: (1) SCHOOL DISTRICTS becomes suspended, debarred,

1 excluded or ineligible for participation in federal or state funded programs or from receiving federal  
2 funds as listed in the excluded parties list system (<http://www/eplis.gov>); or (2) any of the above listed  
3 conditions become applicable to SCHOOL DISTRICTS. The SCHOOL DISTRICTS will indemnify,  
4 defend and hold the COUNTY harmless for any loss or damage resulting from a conviction,  
5 debarment, exclusion, ineligibility or other matter listed in the signed Certification Regarding  
6 Debarment, Suspension, and Other Responsibility Matters.

7 **20. DISCLOSURE OF SELF-DEALING TRANSACTIONS**

8 This provision is only applicable if the SCHOOL DISTRICTS is operating as a  
9 corporation (a for-profit or non-profit corporation) or if during the term of this Agreement, the  
10 SCHOOL DISTRICTS changes its status to operate as a corporation.

11 Members of the SCHOOL DISTRICTS's Board of Directors shall disclose any self-  
12 dealing transactions that they are a party to while SCHOOL DISTRICTS is providing goods or  
13 performing services under this agreement. A self-dealing transaction shall mean a transaction to which  
14 the SCHOOL DISTRICT is a party and in which one or more of its directors has a material financial  
15 interest. Members of the Board of Directors shall disclose any self-dealing transactions that they are a  
16 party to by completing and signing a *Self-Dealing Transaction Disclosure Form* Exhibit E and  
17 submitting it to the COUNTY prior to commencing with the self-dealing transaction or immediately  
18 thereafter.

19 **21. AUDITS AND INSPECTIONS**

20 The SCHOOL DISTRICTS shall at any time during business hours, and as often as the  
21 COUNTY may deem necessary, make available to the COUNTY for examination all of its records and  
22 data with respect to the matters covered by this Agreement. The SCHOOL DISTRICTS shall, upon  
23 request by the COUNTY, permit the COUNTY to audit and inspect all such records and data necessary  
24 to ensure SCHOOL DISTRICTS compliance with the terms of this Agreement.

25 **22. COMPLAINTS**

26 SCHOOL DISTRICTS shall log complaints and the disposition of all complaints from a  
27 client or a client's family. SCHOOL DISTRICTS shall provide a copy of the detailed complaint log  
28 entries concerning COUNTY-sponsored clients to COUNTY DBH at monthly intervals by the tenth



(10<sup>th</sup>) day of the following month, in a format that is mutually agreed upon. In addition, SCHOOL DISTRICTS shall provide details and attach documentation of each complaint with the log. SCHOOL DISTRICTS shall post signs informing clients of their right to file a complaint or grievance. SCHOOL DISTRICTS shall notify COUNTY DBH of all incidents reportable to State licensing bodies that affect COUNTY clients within twenty-four (24) hours of receipt of a complaint.

Within ten (10) days after each incident or complaint affecting COUNTY clients, SCHOOL DISTRICTS shall provide COUNTY with information relevant to the complaint, investigative details of the complaint, the complaint and SCHOOL DISTRICT's disposition of, or corrective action taken to resolve the complaint. In addition, SCHOOL DISTRICT shall inform every client of their rights as set forth in Exhibit F. SCHOOL DISTRICT shall file an incident report for all incidents involving clients, following the protocol and using the worksheet identified in Exhibit G and incorporated herein by reference and made part of this Agreement.

### **23. NOTICES**

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

#### **COUNTY**

Director, Fresno County  
Department of Behavioral Health  
3133 N Millbrook Ave  
Fresno, CA 93703

#### **SCHOOL DISTRICTS**

(See Exhibit A)

All notices between the COUNTY and CONTRACTOR provided for or permitted under this Agreement must be in writing and delivered either by personal service, by first-class United States mail, by an overnight commercial courier service, or by telephonic facsimile transmission. A notice delivered by personal service is effective upon service to the recipient. A notice delivered by first-class United States mail is effective three COUNTY business days after deposit in the United States mail, postage prepaid, addressed to the recipient. A notice delivered by an overnight commercial courier service is effective one COUNTY business day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the recipient. A notice delivered by telephonic facsimile is effective when transmission to the recipient is completed (but, if

1 such transmission is completed outside of COUNTY business hours, then such delivery shall be deemed to  
2 be effective at the next beginning of a COUNTY business day), provided that the sender maintains a  
3 machine record of the completed transmission. For all claims arising out of or related to this Agreement,  
4 nothing in this section establishes, waives, or modifies any claims presentation requirements or procedures  
5 provided by law, including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the  
6 Government Code, beginning with section 810).

7 **24. GOVERNING LAW**

8 The parties agree, that for the purposes of venue, performance under this Agreement is  
9 to be in Fresno County, California.

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

12 **25. ENTIRE AGREEMENT**

13 This Agreement, including all Exhibits, constitutes the entire Agreement between the  
14 SCHOOL DISTRICTS and COUNTY with respect to the subject matter hereof and supersedes all  
15 previous agreement negotiations, proposals, commitments, writings, advertisements, publications, and  
16 understandings of any nature whatsoever unless expressly included in this Agreement.

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

3 ATTEST:

4 SCHOOL DISTRICTS

COUNTY OF FRESNO

5  
6 PLEASE SEE ADDITIONAL  
7 SIGNATURES PAGES ATTACHED

8 By Sal Quintero  
9 Sal Quintero  
10 Chairperson of the Board of Supervisors  
11 of the County of Fresno

12 Date: 7-10-18

13 ATTEST:  
14 BERNICE E. SEIDEL,  
15 Clerk of the Board of Supervisors  
16 County of Fresno, State of California

17 By Susan Bishop  
18 Deputy

19 Date: 7-10-18

20  
21  
22  
23 Fund/Subclass: 0001/10000  
24 Organization: 56304311/56304312  
25 Account/Program: 7295/0

26  
27 PLEASE SEE ADDITIONAL  
28 SIGNATURE PAGES ATTACHED

**CENTRAL UNIFIED SCHOOL DISTRICT:**

By 

Print Name: Kelly Porterfield

Title: Interim Superintendent, CBO

Date: May 2, 2018

Mailing Address:  
4605 N. Polk Avenue  
Fresno, CA 93722  
Phone No.: (559) 274-4700  
Contact: Superintendent

**PLEASE SEE ADDITIONAL  
SIGNATURE PAGE ATTACHED**

1 **FIREBAUGH-LAS DELTAS JOINT UNIFIED SCHOOL DISTRICT:**

2 By 

3  
4 Print Name: Russell Freitas

5  
6 Title: Superintendent

7  
8 Date: May 24, 2018

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25 Mailing Address:  
26 1976 Morris Kyle Drive  
27 Firebaugh, CA 93622-9711  
28 Phone No.: (559) 659-1476  
Contact: Superintendent

**PLEASE SEE ADDITIONAL  
SIGNATURE PAGE ATTACHED**

1 **FOWLER UNIFIED SCHOOL DISTRICT:**

2 By



3  
4 Print Name: M. Scott Griffin


5  
6 Title: Superintendent

7  
8 Date: June 28, 2018

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23  
24 Mailing Address:  
25 658 E. Adams Ave  
26 Fowler, CA 93652  
27 Phone No.: (559) 834-6080  
28 Contact: Superintendent

**PLEASE SEE ADDITIONAL  
SIGNATURE PAGE ATTACHED**

1 **FRESNO UNIFIED SCHOOL DISTRICT:**

2  
3  06/15/18  
4 Ruth F. Quinto Deputy Superintendent/CFO

5 Print Name: \_\_\_\_\_

6  
7 **APPROVED AS TO FORM:**

8 By: 

9 Print Name: Andrew De La Torre

10 Title: Director  
11 Andrew De La Torre, Director  
12 Benefits and Risk Management

13  
14  
15 Mailing Address:

16 **FRESNO UNIFIED SCHOOL DISTRICT**

17 2309 Tulare Street

18 Fresno, CA 93721

19 Contact: Superintendent

20  
21  
22  
23  
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27 **PLEASE SEE ADDITIONAL**  
28 **SIGNATURE PAGE ATTACHED**

1 **KERMAN UNIFIED SCHOOL DISTRICT:**

2 By \_\_\_\_\_

3  
4 Print Name: Robert Frausto

5  
6 Title: Superintendent

7  
8 Date: 6/21/2018

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23  
24 Mailing Address:

25 151 South First

26 Kerman, CA 93630-1029

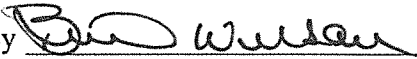
27 Phone No.: (559) 843-9000

28 Contact: Superintendent

**PLEASE SEE ADDITIONAL  
SIGNATURE PAGE ATTACHED**



**PARLIER UNIFIED SCHOOL DISTRICT:**

By 

Print Name: Elizabeth Wilson

Title: Chief Business Officer

Date: June 25, 2018

Mailing Address:  
900 Newmark Avenue  
Parlier, CA 93648-2034  
Phone No.: (559) 646-2731  
Contact: Superintendent

**PLEASE SEE ADDITIONAL  
SIGNATURE PAGE ATTACHED**

## SCHOOL DISTRICTS

The following is the list of SCHOOL DISTRICTS, where the COUNTY will be providing children's mental health services:

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**CENTRAL UNIFIED SCHOOL DISTRICT**

---

4605 N. Polk Avenue  
Fresno, CA 93722  
Phone No.: (559) 274-4700  
Contact: Superintendent  
<http://www.centralunified.org/home>

---

**FIREBAUGH-LAS DELTAS JOINT UNIFIED**

---

1976 Morris Kyle Drive  
Firebaugh, CA 93622-9711  
Phone No.: (559) 659-1476  
Contact: Superintendent  
<https://www.fldusd.org/>

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**FOWLER UNIFIED**

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658 E. Adams Ave  
Fowler, CA 93625  
Phone No.: (559) 834-6080  
<http://www.fowler.k12.ca.us/>

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**FRESNO UNIFIED SCHOOL DISTRICT**

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2309 Tulare Street  
Fresno, CA 93721  
Phone No.: (559) 457-3882  
Contact: Superintendent  
<http://www.fresno.k12.ca.us>

---

**KERMAN UNIFIED SCHOOL DISTRICT**

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151 South First  
Kerman, CA 93630-1029  
Phone No.: (559) 846-5383  
Contact: Superintendent  
[www.kermanusd.k12](http://www.kermanusd.k12)

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**PARLIER UNIFIED SCHOOL DISTRICT**

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900 Newmark Ave.  
Parlier, CA 93648-2034  
Phone No.: (559) 646-2731  
Fax: (559) 888-0210  
Contact: Esperanza Zendejas, Ed. D., Superintendent  
[www.parlierunified.org](http://www.parlierunified.org)

## **Inter-Agency Agreement – Purpose and Intent**

### **School Collaboration with the Fresno County Department of Behavioral Health for On-Site Children's Mental Health Services**

This Agreement formalizes a partnership between Fresno County (County) and various School Districts in Fresno County to increase access to mental health services for students of the Districts by having Children's Mental Health Services on school sites in Fresno, Clovis and in the rural communities of Fresno County. The target population of school-based mental health treatment services is Medi-Cal and uninsured students who are un-served or underserved through traditional mental health programs. Services are provided by the Department of Behavioral Health, School Based Team (SBT), and its contracted providers, for both metropolitan (metro) and rural areas. The selection of school sites is a collaborative decision by the Districts and Department of Behavioral Health (DBH) with priority given to those with a high percentage of Medi-Cal and uninsured pupils and where there are little or no mental health resources on their campuses.

The County's Department of Behavioral Health Director, or designee, or the school districts, may request to convene for review and revision of the program design as policies and regulations change.

#### **A. Selection of School Sites:**

The School District will identify an educational coordinator to work collaboratively with DBH staff to identify school sites to be served prior to school year based on:

1. The degree of unmet mental health needs and lack of mental health resources available on campus.
2. The number of referrals received from the school during the current school year and the caseload capacity and amount of direct client services provided by the DBH clinician at each of his/her assigned school site.
3. The ability of the school to provide a confidential space for the DBH staffs to meet with children and families that include a telephone, electrical outlet for a computer lap top and printer. School sites that do not have appropriate confidential space will not continue to receive SBT services. The number of designated school sites per District will be determined by a review of the previous school year's referral rate and access to appropriate confidential space.
4. Support by school staffs to facilitate attendance to scheduled mental health appointments.
5. Determine the plan for continuation of mental health services during school holidays, State testing, summer breaks, etc.

6. Determine the transition of mental health services when school-based mental health services are discontinued.
7. The District Coordinator/ school administrative staff and DBH will develop guidelines as to the selection/de-selection process of designated school sites within each school district.

In order to avoid a disruption in the therapeutic relationship between the student and DBH clinician, it is advisable that the Districts and DBH mutually agree to changes in the schools to be served no later than 30 days prior to the end of the school year. This early identification of schools will enable mental health services to begin during the summer in advance of the start of the school year.

Rural: schools under each district will be included in the MOU, to allow for flexibility of the assigned rural clinical staff to be able to meet the needs of rural clients in various school sites, based on current caseload need. The need will be monitored by the Clinical Supervisor and clinical staff, and they will have ongoing contact to meet the needs of the rural communities.

*Confidential Space:*

1. Ensures children's mental health services can be conducted in the manner that fulfills State and Federal confidentiality requirements.
2. Does not allow the conversation between the student, therapist and/or family to be heard outside of the confidential space.
3. Will not be accessed by school staffs during therapy sessions.
4. If there are windows that are viewable by anyone outside of the confidential area/room, then the district will provide blinds, curtains or other coverings to protect the confidentiality of each student in treatment in accordance with the school and DBH policies.
5. Promotes the safety and well-being of each student and be maintained in good working order.
6. Room size: large enough to conduct individual and family sessions.

*Telephones:* The schools shall provide a telephone in the confidential office/space used by the DBH clinician or case manager for their day-to-day work, consultations and collaborations regarding their clients/students. If no phones are available, a hand-held two-way radio will be provided to the DBH clinician with training on how to use it for the clinician's safety and that of the students.

**B. Referral Process:**

For Central, Clovis and Fresno Unified School Districts (Metro SBT): The Administration of the school sites shall educate school staff regarding referrals for mental health services by the second week of the fall semester. Each school site will designate a staff person to coordinate the referral process. The staff coordinator shall be responsible for speaking with the parent or legal guardian of

the student (if student is a minor) and the student that a referral for children's mental health services has been made. If the parent objects to the mental health referral, the referral process will not proceed. The mental health (MH) clinician will determine the student's insurance eligibility obtain parental consent before determining the medical necessity of each referral. The MH clinician will keep track of each referral and provide the Staff coordinator of the status of each referral on a monthly basis. The Staff coordinator and the MH clinician will convene monthly with associated staff to discuss stability and well-being of each referred student.

Meetings to increase communication and collaboration between appropriate school staffs and the DBH school-based clinicians will be held as needed to discuss the student's progress toward meeting mental health treatment goals and other supportive services that may be needed.

Rural School Districts (Rural SBT): Referrals will be generated by school staff, parents/legal guardians, Department of Social Services - Social Workers, community agencies, County, DBH in-house programs, contract providers, self-referrals, etc. The referrals will be given to the assigned rural clinical staff. For each rural school campus, the DBH clinical staff will interface with school staff on each campus in which they utilize space, as needed.

DBH Procedures and timeliness of services:

1. Upon receipt of a referral from the school, the DBH staff shall review the appropriateness of the referral and begin the intake process within five (5) working days by contacting the parent/legal guardian.
2. Upon completion of the intake process, a mental health assessment will be scheduled.
3. It is understood that the provision of mental health services is voluntary and the families may decline services at any point in the treatment process.
4. Parents who do not keep their scheduled appointment will be contacted and rescheduled based on scheduling availability and acuity of impairment experienced by the student receiving services.
5. Each student's access to treatment services will be triaged based on acuity and urgency to initiate mental health services.
6. Parent/legal guardian are expected to participate in assessment, treatment planning and ongoing treatment services as determined by the MH clinician,
7. The Parent/legal guardian will be advised at the conclusion of the assessment interview whether or not their child's symptoms meet Medical medical necessity criteria and when treatment services will begin.
8. If no services are warranted, the rationale will be explained to both the parent/legal guardian and the Staff Coordinator.

9. The DBH Clinician will inform the Staff Coordinator when program capacity has been reached, services can be provided, and/or other options that may be available.

**C. Monitoring:**

DBH will monitor the number and outcome of referrals and students engaged in mental health services and communicate with school staff to determine if any changes in the day-to-day operations are needed. Rural school sites within a community will be monitored by the clinical staff and Clinical Supervisor and changes will be made based on the need of the clients and communities involved. Staff will determine school sites based on caseload need.

**D. DBH procedures for ongoing treatment:**

1. The DBH clinician will work collaboratively with school staff to determine an appropriate schedule for ongoing services that will not negatively impact the student's educational needs
2. At the beginning of the day, DBH staff will provide the office manager or other designee with a list of students who are scheduled to be seen will be seen that day.
3. School staff will advise DBH staff whether or not the student is present and assist with having the student summoned for his/her appointment.
4. At Rural school sites, assigned clinical staff will be responsible to work with each individual school staff on each campus or agencies regarding appointments and availability of the students on campus.

## **STATE MENTAL HEALTH REQUIREMENTS**

### **1. CONTROL REQUIREMENTS**

The COUNTY and its subcontractors shall provide services in accordance with all applicable Federal and State statutes and regulations.

### **2. PROFESSIONAL LICENSURE**

All (professional level) persons employed by the COUNTY Mental Health Program (directly or through contract) providing Short-Doyle/Medi-Cal services have met applicable professional licensure requirements pursuant to Business and Professions and Welfare and Institutions Codes.

### **3. 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 42, Code of Federal Regulations sections 2.1 *et seq*; 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.

### **4. NON-DISCRIMINATION**

#### **A. Eligibility for Services**

CONTRACTOR shall prepare and make available to COUNTY and to the public all eligibility requirements to participate in the program plan set forth in the Agreement. No person shall, because of ethnic group identification, age, gender, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed, political belief or sexual preference be excluded from participation, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal or State of California assistance.

#### **B. Employment Opportunity**

CONTRACTOR shall comply with COUNTY policy, and the Equal Employment Opportunity Commission guidelines, which forbids discrimination against any person on the grounds of race, color, national origin, sex, religion, age, disability status, or sexual preference in employment practices. Such practices include retirement, recruitment advertising, hiring, layoff, termination, upgrading, demotion, transfer,

rates of pay or other forms of compensation, use of facilities, and other terms and conditions of employment.

C. Suspension of Compensation

If an allegation of discrimination occurs, COUNTY may withhold all further funds, until CONTRACTOR can show clear and convincing evidence to the satisfaction of COUNTY that funds provided under this Agreement were not used in connection with the alleged discrimination.

D. Nepotism

Except by consent of COUNTY's Department of Behavioral Health Director, or designee, no person shall be employed by CONTRACTOR who is related by blood or marriage to, or who is a member of the Board of Directors or an officer of CONTRACTOR.

5. **PATIENTS' RIGHTS**

CONTRACTOR shall comply with applicable laws and regulations, including but not limited to, laws, regulations, and State policies relating to patients' rights.

**STATE CONTRACTOR CERTIFICATION CLAUSES**

1. **STATEMENT OF COMPLIANCE**: Contractor has, unless exempted, complied with the non-discrimination program requirements. (Gov. Code § 12990 (a-f) and CCR, Title 2, Section 111 02) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS**: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,



2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under

penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

### **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was

employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body

which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. **AIR OR WATER POLLUTION VIOLATION**: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. **PAYEE DATA RECORD FORM STD. 204**: This form must be completed by all contractors that are not another state agency or other governmental entity.

9. **INSPECTION and Audit of Records and access to Facilities.**

The State, CMS, the Office of the Inspector General, the Comptroller General, and their designees may, at any time, inspect and audit any records or documents of CONTRACTOR or its subcontractors, and may, at any time, inspect the premises, physical facilities, and equipment where Medicaid-related activities or work is conducted. The right to audit under this section exists for 10 years from the final date of the contract period or from the date of completion of any audit, whichever is later.

Federal database checks. Consistent with the requirements at § 455.436 of this chapter, the State must confirm the identity and determine the exclusion status of CONTRACTOR, any subcontractor, as well as any person with an ownership or control interest, or who is an agent or managing employee of CONTRACTOR through routine checks of Federal databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), and any other databases as the State or Secretary may prescribe. These databases must be consulted upon contracting and no less frequently than monthly thereafter. If the State finds a party that is excluded, it must promptly notify the CONTRACTOR and take action consistent with § 438.610(c).

The State must ensure that CONTRACTOR with which the State contracts under this part is not located outside of the United States and that no claims paid by a CONTRACTOR to a network provider, out-of-network provider, subcontractor or financial institution located outside of the U.S. are considered in the development of actuarially sound capitation rates.

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

### INSTRUCTIONS FOR CERTIFICATION

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

CERTIFICATION

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

Signature: \_\_\_\_\_  
\_\_\_\_\_  
(Printed Name & Title)

Date: \_\_\_\_\_  
\_\_\_\_\_  
(Name of Agency or Company)"

## 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).

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



## **Fresno County Mental Health Plan**

### **Grievances**

Fresno County Mental Health Plan (MHP) provides beneficiaries with a grievance and appeal process and an expedited appeal process to resolve grievances and disputes at the earliest and the lowest possible level.

Title 9 of the California Code of Regulations requires that the MHP and its fee-for-service providers give verbal and written information to Medi-Cal beneficiaries regarding the following:

- How to access specialty mental health services
- How to file a grievance about services
- How to file for a State Fair Hearing

The MHP has developed a Consumer Guide, a beneficiary rights poster, a grievance form, an appeal form, and Request for Change of Provider Form. All of these beneficiary materials must be posted in prominent locations where Medi-Cal beneficiaries receive outpatient specialty mental health services, including the waiting rooms of providers' offices of service.

Please note that all fee-for-service providers and contract agencies are required to give their clients copies of all current beneficiary information annually at the time their treatment plans are updated and at intake.

Beneficiaries have the right to use the grievance and/or appeal process without any penalty, change in mental health services, or any form of retaliation. All Medi-Cal beneficiaries can file an appeal or state hearing.

Grievances and appeals forms and self addressed envelopes must be available for beneficiaries to pick up at all provider sites without having to make a verbal or written request. Forms can be sent to the following address:

Fresno County Mental Health Plan  
P.O. Box 45003  
Fresno, CA 93718-9886  
(800) 654-3937 (for more information)  
(559) 488-3055 (TTY)

### **Provider Problem Resolution and Appeals Process**

The MHP uses a simple, informal procedure in identifying and resolving provider concerns and problems regarding payment authorization issues, other complaints and concerns.

Informal provider problem resolution process – the provider may first speak to a Provider Relations Specialist (PRS) regarding his or her complaint or concern. The PRS will attempt to settle the complaint or concern with the provider. If the attempt is unsuccessful and the provider chooses to forego the informal grievance process, the provider will be advised to file a written complaint to the MHP address (listed above).

Formal provider appeal process – the provider has the right to access the provider appeal process at any time before, during, or after the provider problem resolution process has begun, when the complaint concerns a denied or modified request for MHP payment authorization, or the process or payment of a provider's claim to the MHP.

Payment authorization issues – the provider may appeal a denied or modified request for payment authorization or a dispute with the MHP regarding the processing or payment of a provider's claim to the MHP. The written appeal must be submitted to the MHP within 90 calendar days of the date of the receipt of the non-approval of payment.

The MHP shall have 60 calendar days from its receipt of the appeal to inform the provider in writing of the decision, including a statement of the reasons for the decision that addresses each issue raised by the provider, and any action required by the provider to implement the decision.

If the appeal concerns a denial or modification of payment authorization request, the MHP utilizes a Managed Care staff who was not involved in the initial denial or modification decision to determine the appeal decision.

If the Managed Care staff reverses the appealed decision, the provider will be asked to submit a revised request for payment within 30 calendar days of receipt of the decision.

Other complaints – if there are other issues or complaints, which are not related to payment authorization issues, providers are encouraged to send a letter of complaint to the MHP. The provider will receive a written response from the MHP within 60 calendar days of receipt of the complaint. The decision rendered by the MHP is final.

## FRESNO COUNTY MENTAL HEALTH PLAN

### GRIEVANCES AND INCIDENT REPORTING

#### PROTOCOL FOR COMPLETION OF INCIDENT REPORT

- The Incident Report must be completed for all incidents involving clients. The staff person who becomes aware of the incident completes this form, and the supervisor co-signs it.
- When more than one client is involved in an incident, a separate form must be completed for each client.

#### Where the forms should be sent - within 24 hours from the time of the incident

- Incident Report should be sent to:  
DBH Program Supervisor

## INCIDENT REPORT WORKSHEET

When did this happen? (date/time) \_\_\_\_\_ Where did this happen? \_\_\_\_\_

Name/DMH # \_\_\_\_\_

### 1. Background information of the incident:

### 2. Method of investigation: (chart review, face-to-face interview, etc.)

Who was affected? (If other than consumer) \_\_\_\_\_

List key people involved. (witnesses, visitors, physicians, employees)

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### 3. Preliminary findings: How did it happen? Sequence of events. Be specific. If attachments are needed write comments on an 8 1/2 sheet of paper and attach to worksheet.

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Outcome severity:    *Nonexistent*   ☐   *inconsequential*   ☐   *consequential*   ☐   *death*   ☐   *not applicable*   ☐   *unknown*   ☐

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### 4. Response: a) corrective action, b) Plan of Action, c) other

Completed by (print name) \_\_\_\_\_

Completed by (signature) \_\_\_\_\_ Date completed \_\_\_\_\_

Reviewed by Supervisor (print name) \_\_\_\_\_

Supervisor Signature \_\_\_\_\_ Date \_\_\_\_\_