

A G R E E M E N T

THIS AGREEMENT is made and entered into effective the 1st day of January, 2015, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and Gregory N. Cherney, PhD, a sole proprietorship, whose address is 7170 N. Financial Drive, Suite 102, Fresno, CA 93720, hereinafter referred to as "CONTRACTOR".

W I T N E S S E T H:

WHEREAS, COUNTY is in need of pre-employment psychological screening and evaluation services to be conducted by a qualified mental health practitioner consistent with California Government Code Section 1031(f) and California Peace Officer Standards and Training (POST) Commission Regulation 1955; and

WHEREAS, COUNTY sought bids for the provision of these psychological screening and evaluation services by issuing Request for Proposal (RFP) No. 964-5261; and

WHEREAS, CONTRACTOR submitted a response to RFP No. 964-5261, is qualified consistent with California Government Code Section 1031(f) and POST Commission Regulation 1955 and willing to provide such services pursuant to the terms and conditions of this Agreement.

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

1. OBLIGATIONS OF THE CONTRACTOR

A. CONTRACTOR shall perform all services and fulfill all responsibilities as identified in COUNTY's Request for Proposal No. 964-5261, dated April 15, 2014 and ADDENDUM ONE and ADDENDUM TWO, dated May 1, 2014 and May 7, 2014 respectively and CONTRACTOR's response to said RFP dated May 1, 2014, all incorporated herein by reference and made part of this Agreement. In the event of any inconsistency in interpreting the documents which constitute this Agreement, the inconsistency shall be resolved by giving precedence in the following order of priority: (1) the text of this Agreement (excluding Exhibit A); (2) Exhibit A; (3) the COUNTY's Request for Proposal No. 964-5261; and (4) the CONTRACTOR's proposal made in response to COUNTY's Request for Proposal No. 964-5261. A copy of the COUNTY's RFP, and

1 CONTRACTOR's response, shall be retained by COUNTY's Department of Personnel Services
2 and made available during the term of this Agreement.

3 B. CONTRACTOR shall conduct pre-employment psychological screening
4 and special compulsory psychological evaluation services for safety and non-safety COUNTY
5 positions when requested by the COUNTY through referrals to CONTRACTOR by the COUNTY.
6 CONTRACTOR understands that the COUNTY typically recruits to fill multiple vacancies (10-20)
7 at one (1) time and CONTRACTOR agrees to perform as many requested screenings as
8 necessary to meet COUNTY's needs. CONTRACTOR agrees to have resources available to
9 accommodate such referrals.

10 C. CONTRACTOR's staff performing services under this Agreement shall be
11 qualified professionals as defined in Government Code Section 1031(f), California POST
12 Commission Regulation 1955 and shall meet any and all applicable education and training
13 requirements for the conduct of pre-employment psychological screenings and special compulsory
14 evaluations of peace officers as set forth by Federal, State and Local regulations including
15 California Commission on POST and will maintain such qualifications during the term of this
16 Agreement.

17 D. Screenings and evaluations will include two (2) or more of the following
18 assessment procedures consistent with California POST Regulations and as mutually agreed
19 upon by the COUNTY and CONTRACTOR:

- 20 a) Minnesota Multiphasic Personality Inventory-2 (MMPI-2) including the
21 MMPI-2 Extended Score Report;
- 22 b) California Psychological Inventory-R (CPI-R);
- 23 c) Rotter Incomplete Sentence Blank-adult form;
- 24 d) Bender Visual-Motor Gestalt Test;
- 25 e) Human Figure Drawings;
- 26 f) House and Tree Drawings;
- 27 g) Adult History Questionnaire;
- 28 h) Law Enforcement Candidate History Questionnaire;

1 i) Additional Projectives (as/if needed).

2 Each screening and evaluation will consist of the following
3 assessment procedures:

- 4 a) Polygraph and background report review;
5 b) Clinical interview with a qualified licensed psychologist;
6 c) Data review by secondary qualified licensed psychologist;
7 d) Brief telephonic feedback session with candidates (as requested).

8 E. CONTRACTOR shall also perform special services related to screenings
9 and evaluations conducted for the COUNTY. Special services include, but are not limited to:
10 participating in case reviews; providing expert testimony in administrative and legal proceedings
11 related to appeals of screenings and evaluations conducted; consulting with COUNTY regarding
12 such appeals or COUNTY concerns regarding screening and evaluation processes; and rendering
13 an opinion as to whether a candidate/employee is a qualified individual with a disability as defined
14 by California State law as well as suggestions to accommodate such individuals.

15 F. CONTRACTOR agrees to conduct monthly psychological screenings at
16 locations other than CONTRACTOR's office, if requested by COUNTY.

17 G. CONTRACTOR shall schedule a screening or evaluation appointment
18 within five (5) working days of CONTRACTOR being notified of COUNTY's need. The date of
19 each scheduled appointment shall be within ten (10) working days from the date of original
20 notification. CONTRACTOR shall notify COUNTY the same day if a candidate/employee
21 cancels or fails to show for a scheduled appointment. CONTRACTOR shall provide notification
22 of results to the COUNTY within five (5) working days of the completion of each screening or
23 evaluation. CONTRACTOR shall provide final written reports to COUNTY within five (5)
24 working days after the screening or evaluation has been conducted.

25 H. Prior to conducting a screening or evaluation, CONTRACTOR shall
26 obtain the candidate/employee's written authorization to release test results, interpretation
27 reports and interview evaluation summaries to the COUNTY. The written authorization may be
28 required to be in a format pre-approved by the COUNTY.

1 I. CONTRACTOR shall obtain pre-approval from the COUNTY before
2 legal services are rendered. This includes preparation and standby, testimony/deposition and
3 portal-to-portal driving.

4 J. CONTRACTOR agrees to perform the services covered herein in strict
5 accordance with all applicable Federal, State of California and County of Fresno statutes,
6 regulations, ordinances, rules and policies governing the practice of medicine and provision of
7 psychological services.

8 2. OBLIGATIONS OF THE COUNTY

9 A. COUNTY's Department of Personnel Services shall provide
10 CONTRACTOR appropriate notification for scheduling psychological screenings and evaluations
11 including candidate/employee name and type of examination to be performed.

12 B. COUNTY shall notify CONTRACTOR if candidates who cancelled or failed
13 to show for a scheduled appointment shall be re-scheduled.

14 C. COUNTY shall notify CONTRACTOR and authorize pre-approval for legal
15 services rendered including preparation and standby, testimony/deposition and portal-to-portal
16 driving.

17 3. TERM

18 This Agreement shall become effective on the 1st day of January, 2015 and
19 shall terminate on the 31st day of December, 2017. This Agreement may be renewed for no more
20 than two (2) additional one (1) year periods based on the mutual written consent of all parties.

21 4. TERMINATION

22 A. Non-Allocation of Funds - The terms of this Agreement, and the services to
23 be provided thereunder, are contingent on the approval of funds by the appropriating government
24 agency. Should sufficient funds not be allocated, the services provided may be modified, or this
25 Agreement terminated, at any time by giving the CONTRACTOR thirty (30) days advance written
26 notice.

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

- 1 a) An illegal or improper use of funds;
2 b) A failure to comply with any term of this Agreement;
3 c) A substantially incorrect or incomplete report submitted to the
4 COUNTY;
5 d) Improperly performed service.

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

14 C. Without Cause - Under circumstances other than those set forth above,
15 this Agreement may be terminated by COUNTY upon the giving of thirty (30) days advance written
16 notice of an intention to terminate to CONTRACTOR.

17 5. COMPENSATION/INVOICING: COUNTY agrees to pay CONTRACTOR and
18 CONTRACTOR agrees to receive compensation at the rate identified in Exhibit A, attached hereto
19 and by this reference incorporated herein. CONTRACTOR shall submit monthly invoices to the
20 County of Fresno, Department of Personnel Services, 2220 Tulare St., 14th Floor, Fresno, CA
21 93721, Attn: Employment Services Division – Personnel Services Manager.

22 In no event shall services performed under this Agreement be in excess of
23 One Hundred Thirty Thousand and No/100 Dollars (\$130,000) annually for each twelve (12)
24 month period of this Agreement. It is understood that all expenses incidental to CONTRACTOR'S
25 performance of services under this Agreement shall be borne by CONTRACTOR. Payments by
26 COUNTY shall be in arrears, within forty-five (45) days after receipt and verification of
27 CONTRACTORS' invoice by the COUNTY for services provided during the preceding month. If
28 an invoice submitted by the CONTRACTOR contains discrepancies/inaccuracies, it will not be

1 processed. The CONTRACTOR will be required to submit a revised and accurate invoice for
2 payment to be processed. If CONTRACTOR should fail to comply with any provision of this
3 Agreement, COUNTY shall be relieved of its obligation for further compensation.

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

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

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

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

27 8. NON-ASSIGNMENT: Neither party shall assign, transfer or sub-contract this
28 Agreement nor their rights or duties under this Agreement without the prior written consent of the

1 other party.

2 9. HOLD HARMLESS: CONTRACTOR agrees to indemnify, save, hold
3 harmless, and at COUNTY'S request, defend the COUNTY, its officers, agents, and employees
4 from any and all costs and expenses, damages, liabilities, claims, and losses occurring or
5 resulting to COUNTY in connection with the performance, or failure to perform, by
6 CONTRACTOR, its officers, agents, or employees under this Agreement, and from any and all
7 costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person,
8 firm, or corporation who may be injured or damaged by the performance, or failure to perform,
9 of CONTRACTOR, its officers, agents, or employees under this Agreement.

10 10. INSURANCE

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

16 A. Commercial General Liability

17 Commercial General Liability Insurance with limits of not less than One
18 Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars
19 (\$2,000,000). This policy shall be issued on a per occurrence basis. COUNTY may require
20 specific coverages including completed operations, products liability, contractual liability,
21 Explosion-Collapse-Underground, fire legal liability or any other liability insurance deemed
22 necessary because of the nature of this contract.

23 B. Automobile Liability

24 Comprehensive Automobile Liability Insurance with limits for bodily injury of
25 not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, Five Hundred
26 Thousand Dollars (\$500,000.00) per accident and for property damages of not less than Fifty
27 Thousand Dollars (\$50,000.00), or such coverage with a combined single limit of Five Hundred
28 Thousand Dollars (\$500,000.00). Coverage should include owned and non-owned vehicles used

1 in connection with this Agreement.

2 C. Professional Liability

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

7 D. Worker's Compensation

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

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

18 Within Thirty (30) days from the date CONTRACTOR signs and executes this
19 Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated
20 above for all of the foregoing policies, as required herein, to the County of Fresno, Department of
21 Personnel Services, 2220 Tulare St., 14th Floor, Fresno, CA, 93721, Attn: Employment Services
22 Division – Personnel Services Manager, stating that such insurance coverage have been obtained
23 and are in full force; that the County of Fresno, its officers, agents and employees will not be
24 responsible for any premiums on the policies; that such Commercial General Liability insurance
25 names the County of Fresno, its officers, agents and employees, individually and collectively, as
26 additional insured, but only insofar as the operations under this Agreement are concerned; that
27 such coverage for additional insured shall apply as primary insurance and any other insurance, or
28 self-insurance, maintained by COUNTY, its officers, agents and employees, shall be excess only

1 and not contributing with insurance provided under CONTRACTOR's policies herein; and that this
2 insurance shall not be cancelled or changed without a minimum of thirty (30) days advance,
3 written notice given to COUNTY.

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

7 All policies shall be issued by admitted insurers licensed to do business in the
8 State of California, and such insurance shall be purchased from companies possessing a current
9 A.M. Best, Inc. rating of A FSC VII or better.

10 11. NON-DISCRIMINATION: During the performance of this Agreement,
11 CONTRACTOR shall not unlawfully discriminate against any employee or candidate on the basis
12 of race, ethnicity, gender, sexual orientation, religion, color, national origin, ancestry, disability,
13 medical condition, marital status, age or sex pursuant to all applicable State and Federal statutes
14 and regulations.

15 12. SUBCONTRACTS: CONTRACTOR shall not subcontract this Agreement nor
16 their rights or duties under this Agreement without the prior written consent of COUNTY.
17 CONTRACTOR shall be required to assume full responsibility for all services and activities
18 covered by this Agreement, whether or not they are providing them directly. Further, COUNTY
19 shall consider CONTRACTOR to be the sole point of contact with regard to contractual matters,
20 including payment of any and all charges resulting from this Agreement. CONTRACTOR shall be
21 responsible to COUNTY for the proper performance of any subcontract(s). Any subcontractor
22 shall be subject to the same terms and conditions that CONTRACTOR is subject to under this
23 Agreement.

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

1 with the terms of this Agreement.

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

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

7 COUNTY OF FRESNO

CONTRACTOR

8 Department of Personnel Services

Dr. Gregory N. Cherney, PhD

9 2220 Tulare St. 14th Floor

7170 N. Financial Drive, Suite#102

10 Fresno, CA 93721

Fresno, CA 93720

11 Any and all notices between the COUNTY and the CONTRACTOR provided
12 for or permitted under this Agreement or by law shall be in writing and shall be deemed duly
13 served when personally delivered to one of the parties, or in lieu of such personal services, when
14 deposited in the United States Mail, postage prepaid, addressed to such party.

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

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

19 16. DISCLOSURE OF SELF-DEALING TRANSACTIONS

20 This provision is only applicable if the CONTRACTOR is operating as a
21 corporation (a for-profit or non-profit corporation) or if during the term of the agreement, the
22 CONTRACTOR changes its status to operate as a corporation.

23 Members of the CONTRACTOR's Board of Directors shall disclose any self-
24 dealing transactions that they are a party to while CONTRACTOR is providing goods or
25 performing services under this agreement. A self-dealing transaction shall mean a transaction
26 to which the CONTRACTOR is a party and in which one or more of its directors has a material
27 financial interest. Members of the Board of Directors shall disclose any self-dealing
28 transactions that they are a party to by completing and signing a Self-Dealing Transaction

1 Disclosure Form, attached hereto as Exhibit B and incorporated herein by reference, and
2 submitting it to the COUNTY prior to commencing with the self-dealing transaction or
3 immediately thereafter.

4 17. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

5 A. The parties to this Agreement shall be in strict conformance with all
6 applicable Federal and State of California laws and regulations, including but not limited to
7 Sections 5328, 10850, and 14100.2 et seq. of the Welfare and Institutions Code, Sections 2.1 and
8 431.300 et seq. of Title 42, Code of Federal Regulations (CFR), Section 56 et seq. of the
9 California Civil Code, Sections 11977 and 11812 of Title 22 of the California Code of Regulations,
10 and the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to
11 Section 1320 D et seq. of Title 42, United States Code (USC) and its implementing regulations,
12 including, but not limited to Title 45, CFR, Sections 142, 160, 162, and 164, The Health
13 Information Technology for Economic and Clinical Health Act (HITECH) regarding the
14 confidentiality and security of patient information, and the Genetic Information Nondiscrimination
15 Act (GINA) of 2008 regarding the confidentiality of genetic information.

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

24 B. CONTRACTOR, including its subcontractors and employees, shall protect,
25 from unauthorized access, use, or disclosure of names and other identifying information, including
26 genetic information, concerning persons receiving services pursuant to this Agreement, except
27 where permitted in order to carry out data aggregation purposes for health care operations [45
28 CFR Sections 164.504 (e)(2)(i), 164.504 (3)(2)(ii)(A), and 164.504 (e)(4)(i)] This pertains to any

1 and all persons receiving services pursuant to a COUNTY funded program. This requirement
2 applies to electronic PHI. CONTRACTOR shall not use such identifying information or genetic
3 information for any purpose other than carrying out CONTRACTOR's obligations under this
4 Agreement.

5 C. CONTRACTOR, including its subcontractors and employees, shall not
6 disclose any such identifying information or genetic information to any person or entity, except as
7 otherwise specifically permitted by this Agreement, authorized by Subpart E of 45 CFR Part 164
8 or other law, required by the Secretary, or authorized by the client/patient in writing. In using or
9 disclosing PHI that is permitted by this Agreement or authorized by law, CONTRACTOR shall
10 make reasonable efforts to limit PHI to the minimum necessary to accomplish intended purpose of
11 use, disclosure or request.

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

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

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

28 CONTRACTOR shall make any amendment(s) to PHI in a designated record

set at the request of COUNTY or individual, and in the time and manner designated by COUNTY in accordance with 45 CFR Section 164.526.

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

G. CONTRACTOR shall report to COUNTY, in writing, any knowledge or reasonable belief that there has been unauthorized access, viewing, use, disclosure, security incident, or breach of unsecured PHI not permitted by this Agreement of which it becomes aware, immediately and without reasonable delay and in no case later than two (2) business days of discovery. Immediate notification shall be made to COUNTY's Information Security Officer and Privacy Officer and COUNTY's DPH HIPAA Representative, within two (2) business days of discovery. The notification shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, used, disclosed, or breached. CONTRACTOR shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State Laws and regulations. CONTRACTOR shall investigate such breach and is responsible for all notifications required by law and regulation or deemed necessary by COUNTY and shall provide a written report of the investigation and reporting required to COUNTY's Information Security Officer and Privacy Officer and COUNTY's DPH HIPAA Representative. This written investigation and description of any reporting necessary shall be postmarked within the thirty (30) working days of the discovery of the breach to the addresses below:

County of Fresno	County of Fresno	County of Fresno
Dept. of Public Health	Dept. of Public Health	Information Technology Services
HIPAA Representative	Privacy Officer	Information Security Officer
(559) 600-6439	(559) 600-6405	(559) 600-5800
P.O. Box 11867	P.O. Box 11867	2048 N. Fine Street
Fresno, CA 93775	Fresno, CA 93775	Fresno, CA 93727

1 H. CONTRACTOR shall make its internal practices, books, and records relating
2 to the use and disclosure of PHI received from COUNTY, or created or received by the
3 CONTRACTOR on behalf of COUNTY, in compliance with HIPAA's Privacy Rule, including, but
4 not limited to the requirements set forth in Title 45, CFR, Sections 160 and 164. CONTRACTOR
5 shall make its internal practices, books, and records relating to the use and disclosure of PHI
6 received from COUNTY, or created or received by the CONTRACTOR on behalf of COUNTY,
7 available to the United States Department of Health and Human Services (Secretary) upon
8 demand.

9 CONTRACTOR shall cooperate with the compliance and investigation
10 reviews conducted by the Secretary. PHI access to the Secretary must be provided during the
11 CONTRACTOR's normal business hours, however, upon exigent circumstances access at any
12 time must be granted. Upon the Secretary's compliance or investigation review, if PHI is
13 unavailable to CONTRACTOR and in possession of a Subcontractor, it must certify efforts to
14 obtain the information to the Secretary.

15 I. Safeguards

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

28 CONTRACTOR shall implement strong access controls and other security

1 safeguards and precautions in order to restrict logical and physical access to confidential,
2 personal (e.g., PHI) or sensitive data to authorized users only. Said safeguards and precautions
3 shall include the following administrative and technical password controls for all systems used to
4 process or store confidential, personal, or sensitive data:

5 1. Passwords must not be:

6 a. Shared or written down where they are accessible or
7 recognizable by anyone else; such as taped to computer screens, stored under keyboards, or
8 visible in a work area;

9 b. A dictionary word; or

10 c. Stored in clear text

11 2. Passwords must be:

12 a. Eight (8) characters or more in length;

13 b. Changed every ninety (90) days;

14 c. Changed immediately if revealed or compromised; and

15 d. Composed of characters from at least three (3) of the following
16 four (4) groups from the standard keyboard:

17 1) Upper case letters (A-Z);

18 2) Lowercase letters (a-z);

19 3) Arabic numerals (0 through 9); and

20 4) Non-alphanumeric characters (punctuation symbols).

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

24 1. Network-based firewall and/or personal firewall;

25 2. Continuously updated anti-virus software; and

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

28 CONTRACTOR shall utilize a commercial encryption solution that has

1 received FIPS 140-2 validation to encrypt all confidential, personal, or sensitive data stored on
2 portable electronic media (including, but not limited to, compact disks and thumb drives) and on
3 portable computing devices (including, but not limited to, laptop and notebook computers).

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

10 J. Mitigation of Harmful Effects

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

16 K. CONTRACTOR's Subcontractors

17 CONTRACTOR shall ensure that any of its contractors, including
18 subcontractors, if applicable, to whom CONTRACTOR provides PHI received from or created or
19 received by CONTRACTOR on behalf of COUNTY, agree to the same restrictions, safeguards,
20 and conditions that apply to CONTRACTOR 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 subcontractors..

23 L. Employee Training and Discipline

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

1 M. Termination for Cause

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

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

7 2. Immediately terminate this Agreement if CONTRACTOR 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's Privacy
10 Officer shall report the violation to the Secretary of the U.S. Department of Health and Human
11 Services.

12 N. Judicial or Administrative Proceedings

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

19 O. Effect of Termination

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

1 P. Disclaimer

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

8 Q. Amendment

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

19 R. No Third-Party Beneficiaries

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

24 S. Interpretation

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

1 regulations.

2 T. Regulatory References

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

5 U. Survival

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

8 V. No Waiver of Obligations

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

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

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

3 CONTRACTOR

4 
5 (Authorized Signature)


6 Dr. Gregory N. Cherney, PhD

7 7170 N. Financial Dr., #102
8 Mailing Address

9 Fresno, CA 93720

10 DATE: 9/30/2014
11

12 APPROVED AS TO LEGAL FORM

13
14 
15 Daniel C. Cederborg, County Counsel

16 DATE : _____
17

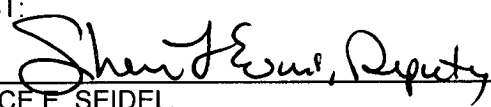
18
19 FOR ACCOUNTING USE ONLY:
20 ORG No.: 10100400
21 Account No.: 7295
22 Requisition No.:
23
24
25
26
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COUNTY OF FRESNO


Chairman, Board of Supervisors

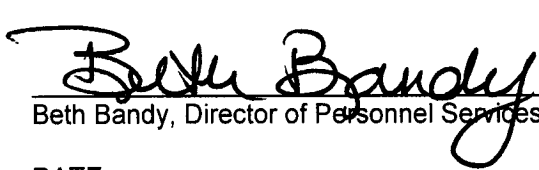
DATE: 10-28-14

ATTEST:


BERNICE E. SEIDEL,
Clerk to the Board of Supervisors

DATE : 10-28-14

REVIEWED AND RECOMMENDED FOR APPROVAL


Beth Bandy, Director of Personnel Services

DATE : _____

APPROVED AS TO ACCOUNTING FORM


Vicki Crow, Auditor-Controller/Treasurer-Tax Collector

DATE : _____

EXHIBIT A

Services Performed	Rate
1. Pre-employment psychological screening conducted at Contractor's place of business includes: <ul style="list-style-type: none"> MMPI-2 utilizing Extended Score report, CPI-R, Bender-Gestalt, Human Figure Drawings, Rotter Incomplete Sentences Blank - adult form, Adult History Questionnaire, Law Enforcement Candidate Questionnaire, Polygraph and background report, Clinical interview with qualified licensed psychologist, secondary data review by qualified licensed psychologist, plus full report. Brief telephonic feedback session with candidates (as requested). 	\$385
2. Pre-employment psychological screening conducted off-site within Fresno County includes: <ul style="list-style-type: none"> Same as quoted in 1 above plus \$10.00 per evaluation. Minimum of nine (9) scheduled evaluations per day (for large number screenings i.e. more than twenty (20) at a time, due to the cost required to pre-purchase test scoring, Doctors will require an advance from the County the amount of which will be specifically detailed to the Personnel Dept. at the time of the request. 	\$395
3. Hourly Rate for Additional Testing: <ul style="list-style-type: none"> e.g. Rorschach 	\$100
4. Hourly Rate for Fitness for Duty Evaluations: <ul style="list-style-type: none"> The Fitness for Duty exam will include all procedures as listed in 1 above plus Rorschach, Millon (MCMI-III), TAIS, extended clinical interview, plus review of County and other pertinent records. 	\$100
5. Rate per No-Show for Appointment: <ul style="list-style-type: none"> For testing/written appointment. For interview no show with no successful re-scheduling (includes interview and test scoring). For interview no show with successful re-scheduling. 	No Charge \$145 \$100
6. Hourly Rate for Legal Services: (Pre-approval required by Personnel Services) <ul style="list-style-type: none"> Preparation and Standby. Testimony/deposition. Portal-to-Portal driving. 	\$150 \$300 \$100
7. Hourly Rate for consultation: <ul style="list-style-type: none"> Per clinician. 	\$100

Exhibit “B”

SELF-DEALING TRANSACTION DISCLOSURE FORM INSTRUCTIONS

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 which one or more of its directors has a material financial interest”

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

- (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 Codes.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

Form provided on following page.

SELF-DEALING TRANSACTION DISCLOSURE FORM

(1) Company Board Member Information:

Name: _____ Date: _____

Job Title: _____

(2) Company/Agency Name and Address:

(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)

(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a)

(5) Authorized Signature

Signature: _____ Date: _____