# COUNTY OF SANTA CLARA
## SERVICE AGREEMENT

### SECTION I: GENERAL INFORMATION

<table>
<thead>
<tr>
<th>Contractor Name: (As Displayed in SAP)</th>
<th>Law Foundation of Silicon Valley</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase Order Number:</td>
<td></td>
</tr>
<tr>
<td>Agency/Department Name:</td>
<td>Behavioral Health Services Departmen</td>
</tr>
<tr>
<td>Department Number:</td>
<td>0415</td>
</tr>
<tr>
<td>Brief Description of Services</td>
<td>Patients' rights advocacy and mental health legal representation</td>
</tr>
</tbody>
</table>

### Maximum Financial Obligation

The maximum amount payable to this Contractor under this agreement shall not exceed: **$1,262,886**

### Term of Agreement

<table>
<thead>
<tr>
<th>Start Date: July 1, 2020</th>
<th>End Date: June 30, 2021</th>
</tr>
</thead>
</table>

Note: When left blank, start date will be the date executed by Authorized County Representative.

### For County Use Only

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Line 1</strong></td>
<td>H</td>
<td>0415</td>
<td>5255100</td>
<td>4341</td>
<td>1,262,886</td>
<td>FY21 Services</td>
<td></td>
</tr>
<tr>
<td><strong>Line 2</strong></td>
<td>Select</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Line 3</strong></td>
<td>Select</td>
<td></td>
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<td></td>
</tr>
<tr>
<td><strong>Line 4</strong></td>
<td>Select</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Line 5</strong></td>
<td>Select</td>
<td></td>
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</tbody>
</table>
SECTION II: PARTIES TO AGREEMENT

Legal notices and invoices pertaining to this Agreement shall be sent to the appropriate contact person listed below, except as otherwise specifically provided for herein. Notices shall be in writing and served either by personal delivery or sent by certified or registered mail, postage prepaid, addressed as follows. Notice shall be deemed effective on the date that the notice is personally delivered or, if mailed, three (3) days after deposit in the mail. Either party may designate a different person and/or address for the receipt of notices by sending written notice to the other party, which shall not require an amendment to this Agreement.

CONTRACTOR

<table>
<thead>
<tr>
<th>Contractor Name: (As Displayed in SAP)</th>
<th>Law Foundation of Silicon Valley</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Person:</td>
<td>Jenny Uchida (CFO), Marlene Bennett, Megan Wheelehan, Supervising Attorney (Program Contact)</td>
</tr>
<tr>
<td>Street Address*:</td>
<td>4 N. Second Street</td>
</tr>
<tr>
<td>City*:</td>
<td>San Jose</td>
</tr>
<tr>
<td>State:</td>
<td>CA</td>
</tr>
<tr>
<td>Zip:</td>
<td>95113</td>
</tr>
<tr>
<td>Telephone Number*:</td>
<td>(408) 280-2408</td>
</tr>
<tr>
<td>Email Address*:</td>
<td><a href="mailto:jenny.uchida@lawfoundation.org">jenny.uchida@lawfoundation.org</a></td>
</tr>
<tr>
<td>SCC Vendor Number: (As Assigned in SAP)</td>
<td>1004859</td>
</tr>
</tbody>
</table>

*To be completed for Independent Contractors Only – DO NOT COMPLETE FOR DEPENDENT CONTRACTORS

COUNTY OF SANTA CLARA

<table>
<thead>
<tr>
<th>Agency/Department:</th>
<th>Behavioral Health Services Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program Manager/Contract Monitor Name:</td>
<td>IrisCarolina Castillo</td>
</tr>
<tr>
<td>Street Address:</td>
<td>828 S. Bascom Ave, Suite 200</td>
</tr>
<tr>
<td>City:</td>
<td>San Jose</td>
</tr>
<tr>
<td>State:</td>
<td>CA</td>
</tr>
<tr>
<td>Zip:</td>
<td>95128</td>
</tr>
<tr>
<td>Telephone Number:</td>
<td>(408) 885-3769</td>
</tr>
<tr>
<td>Fiscal Contact: (Accounts Payable Contact)</td>
<td>Evonne Lai (408) 885-3289</td>
</tr>
<tr>
<td>Contract Preparer:</td>
<td>Melissa Burnias (408) 793-5844</td>
</tr>
</tbody>
</table>
**SECTION III: CONTRACT AUTHORIZATION**

It is agreed between County and Contractor that Contractor will, for the compensation described in this Agreement, perform the work described in Section V in accordance with all terms and conditions of this Agreement including all exhibits and attachments. In addition, County and Contractor assert that the tax withholding status and benefit documentation (Section IV) accurately reflect the anticipated working relationship between County and Contractor. Further, Independent Contractors shall comply with the County's insurance and indemnification requirements. Contractor certifies that any applicable insurance waiver information (Section VII, B) is true and correct. This Agreement may be executed in one or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.

**SIGNATURES**

*Contract is not valid until signed by Contractor, County Counsel and County’s Authorized Representative.*

<table>
<thead>
<tr>
<th>County Agency/Department Manager:</th>
<th>DocuSign by:</th>
<th>Date: 4/9/2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Agency/Department Fiscal Officer:</td>
<td>DocuSign by:</td>
<td>Date: 4/10/2020</td>
</tr>
<tr>
<td>County Counsel Approval as to Form and Legality</td>
<td>DocuSign by:</td>
<td>Date: 4/9/2020</td>
</tr>
</tbody>
</table>

*(Signature required on all contracts before execution by Contractor and County Authorized Representative)*

<table>
<thead>
<tr>
<th>Contractor:</th>
<th>DocuSign by:</th>
<th>Date: 3/20/2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Authorized Representative:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*(Procurement Department; President, Board of Supervisors; or Delegated Authority)*

| Office of the County Executive: | | |
|--------------------------------|| |

*(Signature required when Board approved contract by a delegation of authority)*

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

<table>
<thead>
<tr>
<th>Attest:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Megan Doyle</td>
<td>Clerk of the Board of Supervisors</td>
<td></td>
</tr>
</tbody>
</table>

*(Signature required when Board approved contract)*
SECTION IV: DETERMINATION OF RELATIONSHIP STATUS

Dependent/Independent status is an important relationship distinction. It determines the contractor’s eligibility for Medicare and Social Security, Public Employees’ Retirement System benefits, and other benefits and affects how the contractor files tax returns and the contractor’s responsibility for various federal and state taxes.

<table>
<thead>
<tr>
<th>Questionnaire to be Completed by Contracting Department to Determine Relationship Status of Contractor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Supervision: Will the County have the right to tell the contractor how to do the work, when to arrive or leave work, or when to take breaks? Do you have other employees performing similar work with a similar degree of supervision? <strong>If the answer to any of these questions is YES, select YES from the dropdown.</strong></td>
<td>No</td>
</tr>
<tr>
<td>Training: Will the County instruct the contractor on how to do the job or pay for external training?</td>
<td>No</td>
</tr>
<tr>
<td>Incomplete Work: Will the Contractor be able to resign or terminate the contract without being held either financially or legally liable for unfinished work?</td>
<td>Yes</td>
</tr>
<tr>
<td>Place of Work/Tools: Will the County provide the Contactor with a place to work at a County location and tools to do the job, i.e. computers, telephones, etc.?</td>
<td>No</td>
</tr>
<tr>
<td>Length of Relationship: When the Contractor is hired to complete ongoing departmental duties or functions— <strong>answer YES.</strong> When the contractor is hired to complete a specific project that was not the regular tasks performed by County employees before— <strong>answer NO.</strong></td>
<td>No</td>
</tr>
<tr>
<td>Other Customers: Does the County prevent the Contractor from performing similar services for other customers, either due to the amount of work (full-time), or by contractual provision?</td>
<td>No</td>
</tr>
<tr>
<td>Designation as Business Entity: If the Contractor has a business license or business certificate, or is a corporation, nonprofit organization, or school district, select “No” from the dropdown. (This does not pertain to professional licenses or certificates such as a license for a physician or architect.)</td>
<td>No</td>
</tr>
</tbody>
</table>

**Enter below the business license number and the city/entity where issued.**

<table>
<thead>
<tr>
<th>Bus. License #:</th>
<th>Issued by:</th>
</tr>
</thead>
</table>

| Payment Schedule: Will payments be made either as an hourly wage or as weekly/monthly salary? If payment is by commission or based on project milestones or deliverables, answer “NO” to this question. Be sure this answer matches the contract payment schedule in Section V. | No |
| Support Services: Will County employees or other independent contractors provide assistance to this Contractor? Assistance is defined as clerical, technical or professional support. | No |

If at least 5 of the above questions were answered “NO”, Contractor is an **Independent Contractor.**

If 5 or more of the above questions were answered “YES”, Contractor is a **Dependent Contractor,** where the relationship resembles that of employer/employee. Tax withholding is **required,** and benefits are provided. Complete and attach the following forms: Employee’s Withholding Allowance Certificate—Federal Form W-4, State Withholding, Form DE-4, Determining PERS Eligibility and PERS Member Action Request. Visit [www.cco](http://www.cco) for more information regarding Dependent Contractors. County insurance requirements do not apply to Dependent Contractors.

Contractor understands and agrees that the tax withholding and benefit status checked above is correct. Any changes to the contractor’s tax withholding and benefit status require a new contract. Contractor is responsible for any penalties and liabilities assessed by any taxing authority, based on a change of tax withholding and benefit status.

**Contractor’s Initials:**

**Dept. Fiscal Officer’s Signature:**
<table>
<thead>
<tr>
<th>Or</th>
<th>✔</th>
<th>See Attachment:</th>
<th>A1</th>
<th>Incorporated by this reference.</th>
</tr>
</thead>
</table>

SECTION V: CONTRACT SPECIFICS

A. SERVICE DESCRIPTION AND EXPECTED OUTCOME (SCOPE OF SERVICE)


B. DELIVERABLES, MILESTONES & TIMELINE FOR PERFORMANCE


Or | ✔ | See Attachment: | A1 | Incorporated by this reference. |
C. PERFORMANCE STANDARDS

Or ✔ See Attachment: A1 Incorporated by this reference.

D. PAYMENT SCHEDULE

Note: Dependent contractors are not permitted to work in excess of 40 hours per week

<table>
<thead>
<tr>
<th>Is contractor a Community Based Organization (CBO)?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes ✔</td>
</tr>
<tr>
<td>No</td>
</tr>
</tbody>
</table>

Or ✔ See Attachment: A1 Incorporated by this reference.
SECTION VI: STANDARD PROVISIONS
Changes to the terms and conditions in this section require approval of County Counsel

A. ENTIRE AGREEMENT
This Agreement and its Appendices (if any) constitute the final, complete and exclusive statement of the terms of the agreement between the parties. It incorporates and supersedes all the agreements, covenants and understandings between the parties concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this Agreement. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

B. AMENDMENTS
This agreement may only be amended by a written instrument signed by the Parties.

C. CONFLICTS OF INTEREST
Contractor shall comply, and require its subcontractors to comply, with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the County.

In accepting this Agreement, Contractor covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. Contractor further covenants that, in the performance of this Agreement, it will not employ any contractor or person having such an interest. Contractor, including but not limited to contractor’s employees and subcontractors, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the “Act”), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, Contractor shall, upon execution of this Agreement, provide the County with the names, description of individual duties to be performed, and email addresses of all individuals, including but not limited to Contractor’s employees, agents and subcontractors, that could be substantively involved in “making a governmental decision” or “serving in a staff capacity and in that capacity participating in making governmental decisions or performing duties that would be performed by an individual in a designated position,” (2 CCR 18701(a)(2)), as part of Contractor's service to the County under this Agreement. Contractor shall immediately notify the County of the names and email addresses of any additional individuals later assigned to provide such service to the County under this Agreement in such a capacity. Contractor shall immediately notify the County of the names of individuals working in such a capacity who, during the course of the Agreement, end their service to the County.

If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, Contractor shall ensure that all such individuals identified pursuant to this section understand that they are subject to the Act and shall conform to all requirements of the Act and other laws and regulations listed in subsection (A) including, as required, filing of Statements of Economic Interests within 30 days of commencing service pursuant to this Agreement, annually by April 1, and within 30 days of their termination of service pursuant to this Agreement.

D. GOVERNING LAW, VENUE
This Agreement has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California. Proper venue for legal action regarding this Agreement shall be in the County of Santa Clara.

E. ASSIGNMENT
No assignment of this Agreement or of the rights and obligations hereunder shall be valid without the prior written consent of the other party.
F. ASSIGNMENT OF CLAYTON ACT, CARTWRIGHT ACT CLAIMS
Contractor assigns to the County all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Contractor for sale to the County pursuant to this Agreement.

G. WAIVER
No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party shall be in writing and shall apply to the specific instance expressly stated.

H. COMPLIANCE WITH ALL LAWS, INCLUDING NONDISCRIMINATION, EQUAL OPPORTUNITY, AND WAGE THEFT PREVENTION
(1) **Compliance with All Laws.** Contractor shall comply with all applicable Federal, State, and local laws, regulations, rules, and policies (collectively, “Laws”), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.

(2) **Compliance with Non-Discrimination and Equal Opportunity Laws:** Contractor shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County’s policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Gov. Code § 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Contractor shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall Contractor discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

(3) **Compliance with Wage and Hour Laws:** Contractor shall comply with all applicable wage and hour Laws, which may include but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local minimum wage, prevailing wage, or living wage Laws.

(4) **Definitions:** For purposes of this Subsection H, the following definitions shall apply. A “Final Judgment” shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of a pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual’s sex, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose’s Office of Equality Assurance.

(5) **Prior Judgments, Decisions or Orders against Contractor:** By signing this Agreement, Contractor affirms that it has disclosed any final judgments that (A) were issued in the five years prior to executing this Agreement by a court, an investigatory government agency, arbiter, or arbitration panel and (B) found that Contractor violated an applicable wage and hour law or pay equity law. Contractor further affirms that it has satisfied and complied with – or has reached Agreement with the County regarding the manner in which it will satisfy – any such final judgments.
(6) **Violations of Wage and Hour Laws or Pay Equity Laws During Term of Contract:** If at any time during the term of this Agreement, Contractor receives a Final Judgment rendered against it for violation of an applicable wage and hour Law or pay equity Law, then Contractor shall promptly satisfy and comply with any such Final Judgment. Contractor shall inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM) of any relevant Final Judgment against it within 30 days of the Final Judgment becoming final or of learning of the Final Judgment, whichever is later. Contractor shall also provide any documentary evidence of compliance with the Final Judgment within 5 days of satisfying the Final Judgment. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 W. Hedding Street, East Wing, 11th Floor, San José, CA 95110. Notice provisions in this paragraph are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.

(7) **Access to Records Concerning Compliance with Pay Equity Laws:** In addition to and notwithstanding any other provision of this Agreement concerning access to Contractor’s records, Contractor shall permit the County and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the County’s request, Contractor shall provide the County with access to any and all facilities and records, including but not limited to financial and employee records, that are related to the purpose of this Subsection H, except where prohibited by federal or state laws, regulations or rules. County’s access to such records and facilities shall be permitted at any time during Contractor’s normal business hours upon no less than 10 business days’ advance notice.

(8) **Pay Equity Notification:** Contractor shall (1) at least once in the first year of this Agreement and annually thereafter, provide each of its employees working in California and each person applying to Contractor for a job in California (collectively, “Employees and Job Applicants”) with an electronic or paper copy of all applicable pay equity Laws or (2) throughout the term of this Agreement, continuously post an electronic copy of all applicable pay equity Laws in conspicuous places accessible to all of Contractor’s Employees and Job Applicants.

(9) **Material Breach:** Failure to comply with any part of this Subsection H shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and at law. County may, among other things, take any or all of the following actions:

(i) Suspend or terminate any or all parts of this Agreement.

(ii) Withhold payment to Contractor until full satisfaction of a Final Judgment concerning violation of an applicable wage and hour Law or pay equity Law.

(iii) Offer Contractor an opportunity to cure the breach.

(10) **Subcontractors:** Contractor shall impose all of the requirements set forth in this Subsection H on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment for violation of an applicable Law promptly satisfies and complies with such Final Judgment.

I. **TERMINATION**

- ✔ Standard Termination Language

The County may, by written notice to Contractor, terminate all or part of this Agreement at any time for the convenience of the County. The notice shall specify the effective date and the scope of the termination. In the event of termination, Contractor shall deliver to County all documents prepared pursuant to the Agreement, whether complete or incomplete. Contractor may retain a copy for its records. Upon receipt of the documents, Contractor shall be compensated based on the completion of services provided, as solely and reasonably determined by County.

- **OR-**

- ✗ Alternate Termination Language Attached as Exhibit __________, incorporated by this reference.
  (Requires County Counsel Approval)

J. **BUDGET CONTINGENCY**

This Agreement is contingent upon the appropriation of sufficient funding by the County for the services covered by this Agreement. If funding is reduced or deleted by the County for the services covered by this Agreement, the County has the option to either terminate this Agreement with no liability occurring to the County or to offer an amendment to this Agreement indicating the reduced amount.
K. COUNTY NO-SMOKING POLICY
Contractor and its employees, agents and subcontractors, shall comply with the County’s No-Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles.

L. FOOD AND BEVERAGES STANDARDS
Except in the event of an emergency or medical necessity, the following nutritional standards shall apply to any foods and/or beverages purchased by Contractor with County funds for County-sponsored meetings or events.

If food is to be provided, healthier food options shall be offered. “Healthier food options” include (1) fruits, vegetables, whole grains, and low fat and low calorie foods; (2) minimally processed foods without added sugar and with low sodium; (3) foods prepared using healthy cooking techniques; and (4) foods with less than 0.5 grams of trans fat per serving. Whenever possible, Contractor shall (1) offer seasonal and local produce; (2) serve fruit instead of sugary, high calorie desserts; (3) attempt to accommodate special, dietary and cultural needs; and (4) post nutritional information and/or a list of ingredients for items served. If meals are to be provided, a vegetarian option shall be provided, and the Contractor should consider providing a vegan option.

If pre-packaged snack foods are provided, the items shall contain: (1) no more than 35% of calories from fat, unless the snack food items consist solely of nuts or seeds; (2) no more than 10% of calories from saturated fat; (4) no more than 35% of total weight from sugar and caloric sweeteners, except for fruits and vegetables with no added sweeteners or fats; and (5) no more than 360 mg of sodium per serving.

If beverages are to be provided, beverages that meet the County’s nutritional criteria are (1) water with no caloric sweeteners; (2) unsweetened coffee or tea, provided that sugar and sugar substitutes may be provided as condiments; (3) unsweetened, unflavored, reduced fat (either nonfat or 1% low fat) dairy milk; (4) plant-derived milk (e.g., soy milk, rice milk, and almond milk) with no more than 130 calories per 8 ounce serving; (5) 100% fruit or vegetable juice (limited to a maximum of 8 ounces per container); and (6) other low-calorie beverages (including tea and/or diet soda) that do not exceed 40 calories per 8 ounce serving. Sugar-sweetened beverages shall not be provided.

M. CONTRACTING PRINCIPLES
All entities that contract with the County to provide services where the contract value is $100,000 or more per budget unit per fiscal year and/or as otherwise directed by the Board, shall be fiscally responsible entities and shall treat their employees fairly. To ensure compliance with these contracting principles, all contractors shall: (1) comply with all applicable federal, state and local rules, regulations and laws; (2) maintain financial records, and make those records available upon request; (3) provide to the County copies of any financial audits that have been completed during the term of the contract; (4) upon the County’s request, provide the County reasonable access, through representatives of the Contractor, to facilities, financial and employee records that are related to the purpose of the contract, except where prohibited by federal or state laws, regulations or rules.

N. CALIFORNIA PUBLIC RECORDS ACT
The County is a public agency subject to the disclosure requirements of the California Public Records Act (“CPRA”). If Contractor’s proprietary information is contained in documents or information submitted to County, and Contractor claims that such information falls within one or more CPRA exemptions, Contractor must clearly mark such information “CONFIDENTIAL AND PROPRIETARY,” and identify the specific lines containing the information. In the event of a request for such information, the County will make best efforts to provide notice to Contractor prior to such disclosure. If Contractor contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before the County is required to respond to the CPRA request. If Contractor fails to obtain such remedy within the time the County is required to respond to the CPRA request, County may disclose the requested information.

Contractor further agrees that it shall defend, indemnify and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and attorney’s fees) that may result from denial by County of a CPRA request for information arising from any representation, or any action (or inaction), by the Contractor.
O. THIRD PARTY BENEFICIARIES
This agreement does not, and is not intended to, confer any rights or remedies upon any person or entity other than the parties.

P. INTELLECTUAL PROPERTY RIGHTS
Ownership: County shall own all right, title and interest in and to the Deliverables. For purposes of this Agreement, the term “Deliverables” shall mean any documentation and deliverables created by Contractor during the performance of services that are identified in this Agreement. Contractor hereby assigns to the County all rights, title and interest in and to any and all intellectual property whether or not patentable or registrable under patent, copyright, trademark or similar statutes, made or conceived or reduced to practice or learned by Contractor, either alone or jointly with others, during the period of Contractor’s agreement with the County or result from the use of premises leased, owned or contracted for by the County.

Contractor acknowledges that all original works of authorship which are made by Contractor (either solely or jointly with others) within the scope of this Agreement and which are protectable by copyright are “works made for hire,” as that term is defined in the United States Copyright Act (17 U.S.C. Section 101), and shall belong solely to County. Contractor agrees that the County will be the copyright owner in all copyrightable works of every kind and description created or delivered by Contractor, either solely or jointly with others, in connection with any agreement with the County.

Q. INTELLECTUAL PROPERTY INDEMNITY
Contractor represents and warrants for the benefit of the County and its users that, to its knowledge, as of the effective date of this Agreement, Contractor is the exclusive owner of all rights, title and interest in the Deliverables and/or services provided pursuant to this Agreement. Contractor shall defend, indemnify and hold the County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and reasonable attorney’s fees) by a third party alleging the Deliverables and/or services provided pursuant to this Agreement infringe upon any intellectual property rights of third parties. This indemnity and duty to defend is in addition to and does not supersede the requirements stated in VII of this agreement.

R. OWNERSHIP RIGHTS TO MATERIALS/RESTRICTIONS ON USE
All materials obtained, developed or prepared by Contractor in the course of performing services hereunder, including but not limited to videotapes, audio recordings, still photographs, ads or brochures, and the derivative works, patent, copyright, trademark, trade secret or other proprietary rights associated therewith (collectively "Deliverables"), shall be the sole and exclusive property of the County. To the extent Contractor owns or claims ownership rights to said Deliverables, Contractor hereby expressly assigns all said rights, title, and interest in and to the Deliverables to the County pursuant to the terms and conditions of this Agreement and at no additional cost. The County has the exclusive royalty-free irrevocable right to duplicate, publish or otherwise use for any purpose, all materials prepared under this Agreement. If Contractor wishes to use the materials prepared hereunder for any purpose including but not limited to promotional, educational or commercial purposes, the Contractor shall obtain prior written authorization from the County, which consent may be withheld by the County in its sole discretion. Contractor acknowledges that all original works of authorship which are made by Contractor (solely or jointly with others) within the scope of this Agreement and which are protectable by copyright are “works made for hire,” as that term is defined in the United States Copyright Act (17 U.S.C. Section 101), and shall belong solely to County. Contractor agrees that the County will be the copyright owner in all copyrightable works of every kind and description created or developed by Contractor, solely or jointly with others, in connection with any agreement with the County. If requested to, and at no further expense to the County, Contractor will execute in writing any acknowledgments or assignments of copyright ownership of such copyrightable works as may be appropriate for preservation of the worldwide ownership in the County and its nominees of such copyrights. This section shall apply to the extent not otherwise provided under this agreement.
S. COUNTY DATA

(1) Definitions: “County Data” shall mean data and information received by Contractor from County. County Data includes any information or data that is transported across a County network, or that resides in a County-owned information system, or on a network or system under the control and management of a contractor for use by County. “County Confidential Information” shall include all material, non-public information (including material, non-public County Data) appearing in any form (including, without limitation, written, oral or displayed), that is disclosed, directly or indirectly, through any means of communication by County, its agents or employees, to Contractor, its agents or employees, or any of its affiliates or representatives.

(2) Contractor shall not acquire any ownership interest in County Data (including County Confidential Information). As between Contractor and County, all County Confidential Information and/or County Data shall remain the property of the County. Contractor shall not, without County’s written permission, use or disclose County Data (including County Confidential Information) other than in the performance of its obligations under this Agreement.

(3) Contractor shall be responsible for establishing and maintaining an information security program that is designed to ensure the security and confidentiality of County Data, protect against any anticipated threats or hazards to the security or integrity of County Data, and protect against unauthorized access to or use of County Data that could result in substantial harm or inconvenience to County or any end users. Upon termination or expiration of this Agreement, Contractor shall seek and follow County’s direction regarding the proper disposition of County Data.

(4) Contractor shall take appropriate action to address any incident of unauthorized access to County Data, including addressing and/or remediying the issue that resulted in such unauthorized access, and notifying County by phone or in writing within 24 hours of any incident of unauthorized access to County Data, or any other breach in Contractor’s security that materially affects County or end users. If the initial notification is by phone, Contractor shall provide a written notice within 5 days of the incident. Contractor shall be responsible for ensuring compliance by its officers, employees, agents, and subcontractors with the confidentiality, privacy, and information security requirements of this Agreement. Should County Confidential Information and/or legally protected County Data be divulged to unauthorized third parties, Contractor shall comply with all applicable federal and state laws and regulations, including but not limited to California Civil Code sections 1798.29 and 1798.82 at Contractor’s sole expense. Contractor shall not charge County for any expenses associated with Contractor’s compliance with these obligations.

(5) Contractor shall defend, indemnify and hold County harmless against any claim, liability, loss, injury or damage arising out of, or in connection with, the unauthorized use, access, and/or disclosure of information by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County.

T. PAYMENT TERM [NOT APPLICABLE TO COMMUNITY BASED ORGANIZATIONS – Describe payment terms for CBO’s in Section V.]

(D) PAYMENT SCHEDULE]
The parties agree that the payment term shall be the term selected below and payment shall be due in accordance with the selected payment term. For example, if Contractor selects 2.25% 10 Net 45 as the payment term, payment shall be due 10 days from the date the County approves the invoice, instead of 45 days, and the County shall take a discount of 2.25% of the total amount of the invoice. Payment is deemed to have been made on the date the County mails the warrant or initiates the electronic fund transfer.

- 2.25% 10 Net 45 (provides 35 days of cash acceleration)
- 2.00% 15 Net 45 (provides 30 days of cash acceleration)
- 1.75% 20 Net 45 (provides 25 days of cash acceleration)
- 1.33% 25 Net 45 (provides 20 days of cash acceleration)
- 1.00% 30 Net 45 (provides 15 days of cash acceleration)
- Net 45 (full payment)

Note: Payment term will default to "Net 45 (full payment)", if no other term was selected.

Notwithstanding the option selected above, the parties agree that at any time during the contract term, either party may initiate an early payment discount on an invoice-by-invoice basis utilizing the Dynamic Discounting functionality of the Ariba Network. Contractor must have a registered account on the Ariba Network to utilize this functionality.
U. CONTRACT EXECUTION

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the County.

V. LIVING WAGE (IF APPLICABLE)

Unless otherwise exempted or prohibited by law or County policy, where applicable, Contractors that contract with the County to provide Direct Services developed pursuant to a formal Request for Proposals process, as defined in County of Santa Clara Ordinance Code Division B36 (“Division B36”) and Board Policy section 5.5.5.5 (“Living Wage Policy”), and their subcontractors, where the contract value is $100,000 or more (“Direct Services Contract”), must comply with Division B36 and the Living Wage Policy and compensate their employees in accordance with Division B36 and the Living Wage Policy. Compliance and compensation for purposes of this provision includes, but is not limited to, components relating to fair compensation, earned sick leave, paid jury duty, fair workweek, worker retention, fair chance hiring, targeted hiring, local hiring, protection from retaliation, and labor peace. If Contractor and/or a subcontractor violates this provision, the Board of Supervisors or its designee may, at its sole discretion, take responsive actions including, but not limited to, the following:

(a) Suspend, modify, or terminate the Direct Services Contract.
(b) Require the Contractor and/or Subcontractor to comply with an appropriate remediation plan developed by the County.
(c) Waive all or part of Division B36 or the Living Wage Policy.

This provision shall not be construed to limit an employee’s rights to bring any legal action for violation of the employee’s rights under Division B36 or any other applicable law. Further, this provision does not confer any rights upon any person or entity other than the Board of Supervisors or its designee to bring any action seeking the cancellation or suspension of a County contract. By entering into this contract, Contractor certifies that it is currently complying with Division B36 and the Living Wage Policy with respect to applicable contracts and warrants that it will continue to comply with Division B36 and the Living Wage Policy with respect to applicable contracts.

SECTION VII: INSURANCE/INDEMNIFICATION

Independent Contractors shall comply with the County’s insurance and indemnification requirements as indicated below. These requirements do not apply to Dependent Contractors.

A. TYPE OF INSURANCE LANGUAGE

The following standard insurance and indemnification language is attached and incorporated into this agreement:

- **Insurance Exhibit Name:** Exhibit C- Insurance Requirements for Professional Services

- Modification or Waiver Attached (if appropriate)
### SECTION VIII: FEDERAL/STATE REQUIRED PROVISIONS
(Examples include Drug-free Workplace Activity, Health Insurance Portability and Accountability Act (HIPAA), Business Associate Language, etc.)

<table>
<thead>
<tr>
<th>A. Federal Required Language Attached</th>
<th>Exhibit Name:</th>
<th>Exhibit D - Business Associate Agreement</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>B. State Required Language Attached</th>
<th>Exhibit Name:</th>
</tr>
</thead>
</table>

The Exhibits named above are attached and incorporated by this reference.

### SECTION IX: ADDITIONAL ATTACHED EXHIBIT(S)
Attachments and exhibits that conflict with County standard provisions or require risk assessment must be approved by County Counsel. Examples of attachments that require County Counsel approval are:

1. Contractor’s terms and conditions that are different than, or add to the standard provisions’ language,

Exceptions to County Counsel review include attachments that further explain the Contract Specifics as outlined in Section V, and insurance exhibits.

The Exhibits named above are attached and incorporated by this reference.

---

**B. DETERMINATION OF INSURANCE REQUIREMENTS AND WAIVER DECLARATION**

<table>
<thead>
<tr>
<th><strong>Workers Compensation:</strong> Does the contractor have employees?</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>If “YES”, then, WORKER’S COMPENSATION/EMPLOYER’S LIABILITY INSURANCE IS REQUIRED.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Owned Auto Insurance:</strong> Will the contractor use any owned autos in the provision of direct services, such as transporting clients in autos or operating autos in performance of the work itself?</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>If “YES”, then INSURANCE FOR OWNED AUTOS IS REQUIRED.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Hired Auto Insurance:</strong> Will the contractor use any hired autos in the provision of direct services, such as transporting clients in autos or operating autos in performance of the work itself?</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>If “YES”, then INSURANCE FOR HIRED AUTOS IS REQUIRED.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Non-owned Auto Insurance</strong></th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will the contractor be using any non-owned autos in the provision of direct services, such as transporting clients in non-owned autos or operating non-owned autos in performance of the work itself?</td>
<td></td>
</tr>
<tr>
<td>If “YES” then, INSURANCE FOR NON-OWNED AUTOS IS REQUIRED.</td>
<td></td>
</tr>
</tbody>
</table>

*When “NO” is checked, this declaration will serve as a waiver for the specified type of insurance.*
SECTION V: CONTRACT SPECIFICS

A. SERVICE DESCRIPTION AND EXPECTED OUTCOME (SCOPE OF WORK)

1. The Director of the Behavioral Health Services Department (BHSD) is required by the California Welfare and Institutions Code (WIC) to designate a patient rights advocate for Santa Clara County mental health clients. The CONTRACTOR has been appointed as the Director’s designee to perform these duties as described in WIC Section 5326.1; Section 5326.15 (ECT Reports); and California Code of Regulations (CCR) Title 19, Section 866 (Denial of Rights Reports).

2. The Director of the BHSD is empowered by California WIC to designate a representative for patients at certification review, medication capacity, and Roger S. hearings as set forth in WIC Sections 5255, 5256.4 and 5332. The CONTRACTOR has been appointed to perform these duties as described in these sections and in WIC Sections 5333 and 5334. The CONTRACTOR will perform the mandated services to the extent that the current funding levels allow.

3. The parties agree that the CONTRACTOR shall have the right of access to clients and records (with the authorization of the client, or as otherwise allowed by law) for the purpose of monitoring mental health service and programs for compliance with statutory and regulatory patients’ rights provisions and at all times necessary to investigate or resolve specific complaints. (See WIC Sections 5520, 5523(b), 5530(a), 5540, 5541, 5542 and 5545). The parties further agree that the CONTRACTOR shall have the right to interview all persons providing the client with diagnostic or treatment services. (See WIC Section 5530(b).

4. Services provided by the CONTRACTOR may include, but are not limited to, the following:
   a. Investigate the basis of complaints against CCR Title 9, Section 863.2.
   b. Ensure that COUNTY operated mental health facilities’ services and programs are monitored in compliance with statutory and regulatory patients’ rights provisions.
   c. Ensure the recipients of mental health services are notified of their rights.
   d. Provide training and education about mental health laws to providers of mental health services.
   e. Act as a liaison between the COUNTY and the California State Office of Patients’ Rights to exchange information.
   f. Ensure that mentally ill clients who have been certified for fourteen (14)-day intensive treatment under WIC Section 5250 are provided representation as required under WIC Sections 5255 and 5256.4.
   g. Ensure that mentally ill clients who have been certified for fourteen (14)-day intensive treatment under WIC Section 5250 are provided information about the commitment process, their rights to an administrative hearing or a judicial review by writ of habeas corpus, and their rights to counsel in judicial review, including the right to court appointed counsel.
   h. Receive notice within one (1) working day of a private psychiatric facility or Community Treatment Facility (CTF) admitting minors fourteen (14) years and older
pursuant to WIC Section 6002.15(b)(2).

i. Ensure that minors whose parents seek a private acute inpatient facility or CTF’s admission for them, will be provided representation in accordance with Roger S. 19Cal.3d 655 (1977).

j. Ensure that clients who are subject to a capacity hearing pursuant to WIC Section 5332 are provided with or represented by a legal advocate.

k. Monitor Santa Clara County inpatient facilities for compliance with Lanterman-Petris-Short Act (LPS) commitment procedures and California patients’ rights laws.

5. The scope of this Agreement covers services to the following persons:

a. Persons presently in locked facilities; intermediate care; skilled nursing care; residential care; and mental health treatment facilities; or who presently subject to conservatorship; representative payee status or similar restriction on the basis of their mental disability.

b. Persons who have objections to prospective placement in the above described facilities and situations.

6. The CONTRACTOR shall have the right to access clients’ information and records (with the authorization of the clients, or as otherwise allowed by law) for the purpose of monitoring mental health services and programs for compliance with statutory and regulatory patients’ rights provisions or investigating or resolving specific complaints according to WIC Code Sections 5520, 5523(b), 5530(a), 5540, 5541, 5542 and 5545. The CONTRACTOR shall have the right to interview all persons providing diagnostic or treatment services according to WIC Section 5530(b) to the clients.

7. Referrals

a. Referrals to the CONTRACTOR will not be screened by the BHSD and may come from a variety of sources, including self-referral, mental health contractors, advocates, conservators, family members or friends, and official sources.

b. Patients who request fourteen (14)-day certification hearings or are subject to medication capacity hearings or Roger S. hearings are automatically provided representation pursuant to this Agreement.

c. Referrals that do not meet the criteria for behavioral health services or need a different level of care must be directed and linked by the CONTRACTOR to appropriate alternative resources or another provider.

8. Expected Outcomes and Program Goals

a. Reduce subjective suffering from mental illness;

b. Increase meaningful use of time and capabilities in school, work, and activities;

c. Increase natural networks of supportive relationships; and

d. Reduce disparities in service access.

9. Hours of Operation

The CONTRACTOR’s office hours are 9:00 am to 12:00 pm and 1:00 pm to 5:00 pm, Monday through Friday. The lobby shall remain open during the lunch hour. The office is closed for eleven (11) holidays over the calendar year, which includes New Year’s Eve, New Year’s Day, Martin Luther King, Jr. Day, President’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve, and Christmas Day. If a holiday falls on a weekend, the CONTRACTOR shall observe it on a designated weekday. For patients’ rights hearing representation
under this AGREEMENT, the CONTRACTOR shall follow the Superior Court holiday schedule, which can be found at http://www.scscourt.org/general_info/holidays_closures.shtml. The CONTRACTOR shall have staff available that responds to hearings even if the response must be made during a holiday for the organization.

10. Administrative Participation

A representative of the CONTRACTOR will attend regularly scheduled meetings, training sessions, seminars or other meetings as scheduled by the Director of the BHSD or their designee. This includes Adult and Older Adult System of Care meetings.

11. Discharges

a. The CONTRACTOR will consider a matter closed when any of the following circumstances occur: counsel and advice; legal service (other than counseling); referred after legal assessment; insufficient merit to process; client withdrew or failed to return; negotiated settlement (without litigation); negotiated settlement (with litigation); administrative decision by the CONTRACTOR; court decision; or change in eligibility status.

b. For mental health hearings, the matter is closed after hearing is conducted.

B. DELIVERABLES, MILESTONES, & TIMELINE FOR PERFORMANCE

1. Deliverables

a. Quarterly Reviews: The CONTRACTOR shall submit a quarterly report demonstrating performance in the above metrics. The CONTRACTOR will review run charts that demonstrate monthly performance from the start date of the contracted services and will include discussion of improvement activities related to the targeted performance.

b. Quality Improvement Plan (QIP): The CONTRACTOR will submit an annual QIP for review and approval as set forth by the COUNTY. The CONTRACTOR will assess performance per above targets, metrics and improvement objectives, and address needed improvements in the QIP.

2. Performance Targets, Metrics & Improvement Objectives

a. Engagement in Services (Timeliness/Access)

1) Performance Objective: Decrease the number of business days from the date of request to an appointment being offered for mental health services to ten (10) days.

2) Performance Objective: Decrease the percent of open client no shows to 25%.

b. Successful Discharges (Quality)

Performance Objective: Increase the percent of successful discharges to 60%.

c. Acute Care Readmissions (Quality)

1) Targeted System Performance: No more than 5% of clients receiving inpatient hospital services are readmitted within thirty (30) days.

2) Metric: Number and percentage of clients discharging from acute care services who are readmitted within thirty (30) days for any reason.

3) Improvement Objective: Reduce the percentage of clients receiving inpatient hospital services who are readmitted within thirty (30) days to no more than 7%.
C. PERFORMANCE STANDARDS

1. The CONTRACTOR will provide services under this AGREEMENT in accordance with all applicable federal, state, and local laws, rules, regulations, and codes effective at the inception of this AGREEMENT and that become effective during the TERM of this AGREEMENT.

2. The CONTRACTOR shall employ staff with diverse cultural and linguistic competency, provide Spanish language capability in house and other languages capacity for telephone and in-person interpretation services, including a video interpretation service for American Sign Language (ASL). Attorneys and advocates shall be mindful of language and literacy barriers for the clients and use individual representation and communication approaches to address the needs and skills of each client. The CONTRACTOR’s staff from other units shall assist the patients’ rights advocates with interpretation when needed.

3. The CONTRACTOR shall ensure that their staff attend the trainings outlined below:

<table>
<thead>
<tr>
<th>Training and Outreach Activities</th>
<th>No. of Events</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outreach Activities to Mental Health Clients</td>
<td>5</td>
</tr>
<tr>
<td>Training of Staff at LPS Facilities</td>
<td>5</td>
</tr>
<tr>
<td>Training of Staff for Full Service Partnership (FSP) Contractors</td>
<td>2</td>
</tr>
<tr>
<td>Legal Aspects of Civil Commitment Trainings (Crisis Intervention Training with Police and Sheriff Departments, 5150 Trainings)</td>
<td>4</td>
</tr>
</tbody>
</table>

4. The CONTRACTOR shall follow the COUNTY’s data reporting requirements. Data Reporting Methods may include collection and reporting of the following:
   a. Client and Service Information (CSI) data
   b. COUNTY data system data
   c. Other data reporting requirements as requested by the BHSD

5. The CONTRACTOR shall prepare and provide quarterly reports indicating the number of clients served. The report shall include demographic information, the purpose of the client contact, final disposition, the number of trainings completed, the type of training provided, audience, and the results.

6. In addition to quarterly reports, a year-end report shall be submitted to the BHSD no later than thirty (30) days after the end of every fiscal year.

D. PAYMENT SCHEDULE

1. The CONTRACTOR will be paid according to the Exhibit B1 (budget) attached and incorporated by this reference.

2. The CONTRACTOR will submit monthly cost-based invoices to the BHSD Contract Monitor and the Finance Analyst with the relevant backup documentation. Invoices must include the CONTRACTOR’s name and address, date invoice is prepared, invoice number, Purchase Order (PO) Number, Program Name, date and description of services, and total invoice amount.

3. Invoices are also required to include the following information: budget, prior draw-down, current balance, current draw-down, and available balance.
# Exhibit B1

Count of Santa Clara Health System, Behavioral Health Services Department

<table>
<thead>
<tr>
<th>FTE</th>
<th>Classification</th>
<th>Budget FY2021</th>
<th>Budget Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.00</td>
<td>JV Advocate</td>
<td>$17,700</td>
<td>$17,700</td>
</tr>
<tr>
<td>6.00</td>
<td>Attorney/Advocates</td>
<td>$435,200</td>
<td>$435,200</td>
</tr>
<tr>
<td>1.00</td>
<td>Supervising Attorney</td>
<td>$114,300</td>
<td>$114,300</td>
</tr>
<tr>
<td>1.00</td>
<td>Intake Specialist</td>
<td>$55,400</td>
<td>$55,400</td>
</tr>
<tr>
<td>0.55</td>
<td>Contracts Coordinator</td>
<td>$31,600</td>
<td>$31,600</td>
</tr>
<tr>
<td>0.43</td>
<td>Data Entry Clerk</td>
<td>$12,850</td>
<td>$12,850</td>
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<tr>
<td>0.65</td>
<td>Directing Attorney</td>
<td>$100,900</td>
<td>$100,900</td>
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<tr>
<td>0.13</td>
<td>Chief Program Officer (CPO)</td>
<td>$22,225</td>
<td>$22,225</td>
</tr>
<tr>
<td>0.02</td>
<td>Chief Executive Officer (CEO)</td>
<td>$3,560</td>
<td>$3,560</td>
</tr>
<tr>
<td></td>
<td><strong>Subtotal Salaries</strong></td>
<td><strong>$793,735</strong></td>
<td><strong>$793,735</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Benefits</strong></td>
<td><strong>$130,710</strong></td>
<td><strong>$130,710</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Subtotal Personnel Costs</strong></td>
<td><strong>$924,445</strong></td>
<td><strong>$924,445</strong></td>
</tr>
</tbody>
</table>

## NON-PERSONNEL COSTS

<table>
<thead>
<tr>
<th>Other Operation Costs</th>
<th>Budget FY2021</th>
<th>Budget Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>G&amp;A Overhead Costs</td>
<td>$135,326</td>
<td>$135,326</td>
</tr>
<tr>
<td>Professional Services</td>
<td>$30,500</td>
<td>$30,500</td>
</tr>
<tr>
<td>Purchased Services</td>
<td>$8,630</td>
<td>$8,630</td>
</tr>
<tr>
<td>Materials &amp; Supplies</td>
<td>$11,000</td>
<td>$11,000</td>
</tr>
<tr>
<td>Facilities</td>
<td>$110,500</td>
<td>$110,500</td>
</tr>
<tr>
<td>Mileage &amp; Travel</td>
<td>$5,300</td>
<td>$5,300</td>
</tr>
<tr>
<td>Conferences &amp; Training</td>
<td>$12,000</td>
<td>$12,000</td>
</tr>
<tr>
<td>Postage &amp; Shipping</td>
<td>$1,400</td>
<td>$1,400</td>
</tr>
<tr>
<td>Membership Dues</td>
<td>$5,000</td>
<td>$5,000</td>
</tr>
<tr>
<td>Bar Membership Dues &amp; Licenses</td>
<td>$4,000</td>
<td>$4,000</td>
</tr>
<tr>
<td>Volunteer Expenses</td>
<td>$250</td>
<td>$250</td>
</tr>
<tr>
<td>Law Library</td>
<td>$4,135</td>
<td>$4,135</td>
</tr>
<tr>
<td>Insurance</td>
<td>$6,100</td>
<td>$6,100</td>
</tr>
<tr>
<td>Depreciation</td>
<td>$4,300</td>
<td>$4,300</td>
</tr>
<tr>
<td><strong>Subtotal Operations Costs</strong></td>
<td><strong>$338,441</strong></td>
<td><strong>$338,441</strong></td>
</tr>
<tr>
<td><strong>Subtotal Non-Personnel Costs</strong></td>
<td><strong>$338,441</strong></td>
<td><strong>$338,441</strong></td>
</tr>
<tr>
<td><strong>TOTAL PERSONNEL/NON-PERSONNEL COSTS</strong></td>
<td><strong>$1,262,886</strong></td>
<td><strong>$1,262,886</strong></td>
</tr>
</tbody>
</table>

## REVENUE SOURCES

<table>
<thead>
<tr>
<th>Revenue Sources</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult/Older Adult County Gen</td>
<td>$1,262,886</td>
</tr>
<tr>
<td>Total Revenue</td>
<td>$1,262,886</td>
</tr>
</tbody>
</table>
INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACTS (e.g. Medical, Legal, Financial services, etc.)

Indemnity

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.
C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
   a. Each occurrence - $1,000,000
   b. General aggregate - $2,000,000
   c. Personal Injury - $1,000,000

2. General liability coverage shall include:
   a. Premises and Operations
   b. Personal Injury liability
   c. Severability of interest

3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

   **Additional Insured Endorsement**, which shall read:

   "County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds."

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.
4. **Automobile Liability Insurance**

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars ($1,000,000) combined single limit per occurrence applicable to owned, non-owned and hired vehicles.

4a. **Aircraft/Watercraft Liability Insurance** (Required if Contractor or any of its agents or subcontractors will operate aircraft or watercraft in the scope of the Agreement)

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars ($1,000,000) combined single limit per occurrence applicable to all owned non-owned and hired aircraft/watercraft.

5. **Workers' Compensation and Employer's Liability Insurance**

a. Statutory California Workers' Compensation coverage including broad form all-states coverage.

b. Employer's Liability coverage for not less than one million dollars ($1,000,000) per occurrence.

6. **Professional Errors and Omissions Liability Insurance**

a. Coverage shall be in an amount of not less than one million dollars ($1,000,000) per occurrence/aggregate.

b. If coverage contains a deductible or self-retention, it shall not be greater than fifty thousand dollars ($50,000) per occurrence/event.

c. Coverage as required herein shall be maintained for a minimum of two years following termination or completion of this Agreement.

7. **Claims Made Coverage**

If coverage is written on a claims made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

a. Policy retroactive date coincides with or precedes the Contractor's start of work (including subsequent policies purchased as renewals or replacements).

b. Policy allows for reporting of circumstances or incidents that might give rise to future claims.
E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.

2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractor’s obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.

4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.
BUSINESS ASSOCIATE AGREEMENT

WHEREAS, the County of Santa Clara (“County” or “Covered Entity”) is a covered entity, as defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and seeks to disclose certain Protected Health Information (defined below) to Contractor (“Business Associate”) pursuant to the terms of the Agreement between the Parties to this Business Associate Agreement (BAA); and

WHEREAS, the County is a hybrid entity pursuant to HIPAA performing both covered and non-covered functions; and

WHEREAS, the County of Santa Clara Health System (CSCHS), which is part of the County and is comprised of multiple County Departments, including the Santa Clara Valley Medical Center Hospital and Clinics (SCVMC), O’Connor Hospital (OCH), St. Louise Regional Hospital (SLRH), the Behavioral Health Services Department (BHSD), the County Public Health Department (PHD), the County Custody Health Services Department (CHSD), and the Valley Health Plan (VHP); and

WHEREAS, SCVMC, OCH, SLRH, BHSD, CHSD, VHP, and portions of PHD are a “covered entity” under HIPAA; and

WHEREAS, the Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI used and disclosed pursuant to this BAA in compliance with HIPAA; the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the “HITECH Act”), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (collectively, the “HIPAA Regulations”); California Welfare & Institutions Code Section 5328; 42 U.S.C. Section 290dd-2; 42 C.F.R part 2; California Confidentiality of Medical Information Act (Civil Code, §56 et seq.); California Health & Safety Code Section 1280.15; and other applicable laws; and to the extent the Business Associate is to carry out the Covered Entity’s obligation under the Privacy Rule (defined below), the Business Associate must comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligation.

WHEREAS, part of the HIPAA Regulations, the Privacy Rule and the Security Rule (both of which are defined below) require covered entities to enter into a contract containing specific requirements with any business associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e), and 164.504(e) of the Code of Federal Regulations (C.F.R.) and contained in this BAA.

NOW, THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to the BAA, the Parties agree as follows:

I. Definitions

Terms used, but not otherwise defined, and terms with initial capital letters in the BAA have the same meaning as defined under HIPAA, the HITECH Act, HIPAA Regulations, and other applicable laws.
**Business Associate** is a person, organization, or agency other than a workforce member that provides specific functions, activities, or services that involve the use, creation, or disclosure of PHI for, or on behalf of, a HIPAA covered health care component. Examples of business associate functions are activities such as claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management, practice management, repricing; and legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services.

**Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.

**Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

**Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.

**Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.

**Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.

**Privacy Breach** shall mean any acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted or allowed under state or federal privacy laws.

**Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.

**Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 160.103. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].

**Protected Information** shall mean PHI provided by Covered Entity to Business Associate or created or received by Business Associate on the Covered Entity’s behalf.

**Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
Unsecured PHI shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h)(1) and 45 C.F.R. 164.402.

II. Duties & Responsibilities of Business Associate

a. Permitted Uses. Business Associate shall use Protected Information only for the purpose of performing Business Associate’s obligations under the Contract and as permitted or required under the Agreement, or as required by law.

Further, Business Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule, Welfare & Institutions Code Section 5328, 42 C.F.R. Part 2, or the HITECH Act, if so used by Covered Entity. However, Business Associate may use Protected Information (i) for the proper management and administration of Business Associate, (ii) to carry out the legal responsibilities of Business Associate, or (iii) for data aggregation purposes for the Health Care Operations of Covered Entity. [45 C.F.R. Sections 164.502(a)(3), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].

b. Permitted Disclosures. Business Associate shall not disclose Protected Information except for the purpose of performing Business Associate’s obligations under the Agreement and as permitted under the Agreement and this BAA. Business Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule, 42 C.F.R., Welfare & Institutions Code Section 5328, or the HITECH Act if so disclosed by Covered Entity. However, Business Associate may disclose Protected Information (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of Covered Entity. If Business Associate discloses Protected Information obtained pursuant to the Agreement and this BAA to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this BAA and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify Business Associate of any Privacy Breaches of confidentiality of the Protected Information within twenty-four (24) hours of discovery, to the extent it has obtained knowledge of such Privacy Breach. [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i)-(ii)(A) and 164.504(e)(4)(ii)].

c. Prohibited Uses and Disclosures. Business Associate shall not use or disclose Protected Information for fundraising or marketing purposes. [42 U.S.C. Section 17936(a) and 45 C.F.R. 164.501]. Business Associate shall not disclose Protected Information to a health plan for payment or health care operations purposes if the individual has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. [42 U.S.C. Section 17935(a); 45 C.F.R. Section 164.502(a)(5)(ii)]. Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act. [42 U.S.C. Section 17935(d)(2)]. This prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to the Agreement.
d. **Appropriate Safeguards.** Business Associate shall implement appropriate administrative, technological, and physical safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this BAA that reasonably and appropriately protect the confidentiality, integrity, and availability of the Protected Information, and comply, where applicable, with the HIPAA Security Rule with respect to Electronic PHI.

e. **Reporting of Improper Access, Use, or Disclosure.** Business Associate shall notify Covered Entity within twenty–four (24) hours of any suspected or actual Privacy Breach of Protected Information; any use or disclosure of Protected Information not permitted by the Contract or Addendum; any security incident (i.e., any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in any information system) related to Protected Information, and any actual or suspected use or disclosure of data in violation of any applicable federal or state laws by Business Associate or its agents or subcontractors.

Business Associate shall report to CSCHS Ethics, Privacy & Compliance Office in writing any access, use, or disclosure of Protected Information not permitted by the Agreement, this BAA, and any other applicable state or federal law, including, but not limited to 42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e) (2) (ii) (C); 45 C.F.R. Section 164.308(b); California Health & Safety Code 1280.15, California Confidentiality of Medical Information Act 56.10, California Welfare & Institutions Section 5328 to the following contacts:

- Ethics, Privacy & Compliance Office
- County of Santa Clara Health System
- 2325 Enborg Lane, Suite 290
- San Jose, California 95128
- Facsimile: (408) 885-6006 Telephone: (408) 885-3794
- Email: ComplianceOfficer@hhs.sccgov.org

The Privacy Breach notification shall include, to the extent possible, the following: (1) a brief description of what happened, including the date of the Privacy Breach and the date of the discovery of the Privacy Breach, if known; (2) the location of the breached information; (3) the unauthorized person who used the PHI or to whom the disclosure was made; (4) whether the PHI was actually acquired or viewed; (5) a description of the types of PHI that were involved in the Privacy Breach; (6) safeguards in place prior to the Privacy Breach; (7) actions taken in response to the Privacy Breach; (8) any steps individuals should take to protect themselves from potential harm resulting from the Privacy Breach; (9) a brief description of what the business associate is doing to investigate the Privacy Breach, to mitigate harm to individuals, and to protect against further Privacy Breaches; and (10) contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, and website or postal address. [45 C.F.R. Sections 164.410(c) and 164.404(c)]. Business Associate shall take any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Business Associate shall otherwise comply with 45 C.F.R. Section 164.410 with respect to reporting Privacy Breaches of Unsecured PHI. [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 165.308(b)]
f. **Business Associate’s Agents and Subcontractors.** Business Associate shall ensure that any agents or subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such PHI and implement the safeguards required by paragraph (II)(d) above with respect to Electronic PHI. [45 C.F.R. Sections 164.502(e)(1)(ii), 164.504(e)(2)(ii)(D) and 164.308(b)]. If Business Associate knows of a pattern of activity or practice of an agent or subcontractor that constitutes a material breach or violation of an agent or subcontractor’s obligations under the Contract or Addendum or other arrangement, the Business Associate must take reasonable steps to cure the breach or end the violation. If these steps are unsuccessful, Business Associate shall sanction or terminate the contract or arrangement with agent or subcontractor, if feasible. [45 C.F.R. Section 164.504(e)(1)(iii)]. Business Associate shall provide written notification to Covered Entity of any pattern of activity or practice of a subcontractor or agent that Business Associate believes constitutes a material breach or violation of the agent or subcontractor’s obligations under the Contract or Addendum or other arrangement within twenty four (24) hours of discovery and shall meet with Covered Entity to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

g. **Access to Protected Information.** Business Associate shall make Protected Information maintained by Business Associate or its agents or subcontractors in Designated Record Sets available to Covered Entity for inspection and copying within ten (10) days of a request by Covered Entity to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524. [45 CFR Section 164.504(e)(2)(ii) (E); 42 C.F.R. part 2 and Welfare & Institutions Code Section 5328]. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e)(1). If any individual requests access to PHI directly from Business Associate or its agents or subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the request.

h. **Electronic PHI.** If Business Associate receives, creates, transmits, or maintains Electronic PHI on behalf of Covered Entity, Business Associate will, in addition, do the following:

1. Develop, implement, maintain, and use appropriate administrative, physical, and technical safeguards in compliance with Section 1173(d) of the Social Security Act, Title 42, Section 1320(s) or the United States Code and Title 45, Part 162 and 164 of CFR to preserve the integrity and confidentiality of all electronically maintained or transmitted PHI received from or on behalf of Covered Entity.

2. Document and keep these security measures current and available for inspection by Covered Entity.

3. Ensure that any agent, including a subcontractor, to whom the Business Associate provides Electronic PHI, agrees to implement reasonable and appropriate safeguards to protect it.

4. Report to the Covered Entity any Security Incident of which it becomes aware. For the purposes of this BAA and the Agreement, Security Incident means, as set forth in 45 C.F.R. Section 164.304, “the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.” Security incident shall not include, (a)
unsuccessful attempts to penetrate computer networks or servers maintained by Business Associate, or (b) immaterial incidents that occur on a routine basis, such as general “pinging” or “denial of service” attacks.

i. Amendment of PHI. Within ten (10) days of receipt of a request from Covered Entity for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Business Associate or its agents or subcontractors shall make such Protected Information available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under the Privacy Rule. If any individual requests an amendment of Protected Information directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by Business Associate or its agents or subcontractors shall be the responsibility of Covered Entity.

j. Accounting Rights. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with the Privacy Rule and the HITECH Act. [42 U.S.C. Section 17935(c) and 45 C.F.R. Section 164.528]. Business Associate agrees to implement a process that allows for an accounting of disclosures to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request. Accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for three (3) years prior to the request, and only to the extent Business Associate maintains an electronic health record and is subject to this requirement.

At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual’s authorization, or a copy of the written request for disclosure. [45 C.F.R. Section 164.528(b)]. In the event that the request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall forward it to Covered Entity in writing within five (5) days of the request. It shall be Covered Entity’s responsibility to prepare and deliver any such accounting requested. Business Associate shall not disclose any Protected Information except as set forth in the Agreement and this BAA.

k. Governmental Access to Records. Business Associate shall make its internal practices, books, and records relating to the use and disclosure of Protected Information available to Covered Entity and to the Secretary of the U.S. Department of Health and Human Services (the “Secretary”) for purposes of determining Business Associate’s compliance with the Privacy Rule [45 C.F.R. Section 165.504(e)(2)(ii)(I)]. Business Associate shall concurrently provide to Covered Entity a copy of any internal practices, books, and records relating the use and disclosure of PHI that Business Associate provides to the Secretary.

l. Minimum Necessary. Business Associate and its agents or subcontractors shall request, use, and disclose only the minimum amount of Protected Information reasonably necessary
to accomplish the purpose of the request, use, or disclosure in accordance with 42 U.S.C. Section 17935(b).

m. Data Ownership. Business Associate acknowledges that Business Associate has no ownership rights with respect to the Protected Information governed by this BAA, and all rights, interests, and title remain vested in the County at all times.

n. Warranties and Disclosures. Business Associate assumes risk for any and all use of PHI. Covered Entity assumes no liability or responsibility for any errors or omissions in, or reliance upon, the PHI, including, but not limited to information electronic systems. Covered Entity makes no representations or warranties of any kind, express or implied, including but not limited to: accuracy, completeness, or availability of content, non-infringement, merchantability, or fitness for a particular use or purpose. Covered Entity does not warrant that PHI is free of viruses or other harmful components or that service will be uninterrupted or error-free, or that defects will be corrected.

o. Audits, Inspection, and Enforcement. Within ten (10) days of a written request by Covered Entity, Business Associate and its agents or subcontractors shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies, and procedures relating to the use or disclosure of Protected Information pursuant to this BAA for the purpose of determining whether Business Associate has complied with this BAA; provided, however, that (i) Business Associate and Covered Entity shall mutually agree in advance upon the scope, timing, and location of such an inspection; (ii) Covered Entity shall protect the confidentiality of all confidential and proprietary information of Business Associate to which Covered Entity has access during the course of such inspection; and (iii) Covered Entity shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by Business Associate.

The fact that Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate’s facilities, systems, books, records, agreements, policies, and procedures does not relieve Business Associate of its responsibility to comply with the BAA, nor does Covered Entity’s (i) failure to detect any unsatisfactory practices; or (ii) detection, but failure to notify Business Associate or require Business Associate’s remediation of any unsatisfactory practices; constitute acceptance of such practice or a waiver of Covered Entity’s enforcement rights under the Agreement or BAA. Business Associate shall notify Covered Entity within five (5) days of learning that Business Associate has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights of the U.S. Department of Health and Human Services.

III. Termination

a. Material Breach. A Breach by Business Associate of any provision of this BAA shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement, notwithstanding any provision in the Agreement to the contrary. [45 C.F.R. Section 164.504(e)(2)(iii)].

b. Judicial or Administrative Proceedings. Covered Entity may terminate the Agreement, effective immediately, if (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, 42 C.F.R. Part 2, the HIPAA Regulations
or other security or privacy laws; or (ii) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, 42 C.F.R. Part 2, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding.

c. **Effect of Termination.** Upon termination of the Agreement for any reason, Business Associate shall, at the option of Covered Entity, immediately return or destroy all Protected Information that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, Business Associate shall continue to extend the protections of Section II of the BAA to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e) (ii)(2)(I)]. If County elects destruction of the PHI, Business Associate shall certify in writing to County that such PHI has been destroyed.

IV. **General Provisions**

a. **Indemnification.** In addition to the indemnification language in the Agreement, Business Associate agrees (i) to be responsible for, and defend, indemnify, and hold harmless the Covered Entity for any breach of Business Associate’s privacy or security obligations under the Agreement, including any fines, penalties, and assessments that may be made against Covered Entity or the Business Associate for any Privacy Breaches or late reporting; and (ii) to pay and bear responsibility for the cost of and notice for any credit monitoring services.

b. **Disclaimer.** Covered Entity makes no warranty or representation that compliance by Business Associate with this BAA, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for Business Associate’s own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the use and safeguarding of PHI.

c. **Amendment to Comply with Law.** The parties acknowledge that state and federal laws relating to data security and privacy are evolving and that amendment of the Agreement or BAA 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 implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable California laws relating to the security or confidentiality of PHI. Upon the request of any Party, the other Party agrees to promptly enter into negotiations concerning the terms of an amendment to the BAA embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable California laws relating to the security or confidentiality of PHI.

Covered Entity may terminate the Agreement between the Parties or this BAA upon thirty (30) days written notice in the event (i) Business Associate does not promptly enter into negotiations to amend the Agreement when requested by Covered Entity pursuant to this section or (ii) Business Associate does not enter into an amendment to the Agreement providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.
d. **Assistance in Litigation of Administrative Proceedings.** Business Associate shall notify Covered Entity within forty-eight (48) hours of any litigation or administrative proceedings commenced against Business Associate or its agents or subcontractors. Business Associate shall make itself, and any subcontractors, employees, or agents assisting Business Associate in the performance of its obligations under the Agreement or BAA, available to Covered Entity, at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, officers or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where Business Associate or its subcontractor, employee, or agent is named as an adverse party.

e. **No Third-Party Beneficiaries.** Nothing express or implied in the Agreement or this BAA is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

f. **Effect on Agreement.** Except as specifically required to implement the purposes of the BAA, or to the extent inconsistent with this BAA, all other terms of the Agreement shall remain in force and effect.

g. **Interpretation.** The BAA shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule, and the Security Rule. The parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, 42 C.F.R. Part 2, the Privacy Rule, and the Security Rule and other applicable California laws relating to the security or confidentiality of PHI.

h. **Governing Law, Venue.** This Business Associate Agreement has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California. Proper venue for legal action regarding this Agreement shall be in the County of Santa Clara.

i. **Survivorship.** The respective rights and responsibilities of Business Associate related to the handling of PHI survive termination of this Agreement.

V. **Drug and Alcohol Records**

a. Covered Entity and Business Associate agree that when drug and alcohol treatment records are included in the contracted scope of services, the Business Associate will act as a “qualified service organization” or a “QSO” within the meaning of the federal law governing Confidentiality of Alcohol and Drug Abuse Patient Records and its implementing regulations, 42 C.F.R. Part 2; and

b. **Adherence to the Requirements of 42 C.F.R.** Business Associate acknowledges that in receiving, transmitting, transporting, storing, processing, or otherwise dealing with records and information for CSCHS patients under this Agreement and BAA, it is fully bound by the regulations governing confidentiality of alcohol and drug abuse patient records, 42 C.F.R. Section 2.1 et seq., and HIPAA, and may not use or disclose the information except as permitted or required by this BAA or applicable law.
c. **Resist Efforts in Judicial Procedures.** Business Associate agrees to resist any efforts in judicial proceedings to obtain access to the Protected Information except as expressly provided for in the regulations governing the Confidentiality of Alcohol and Drug Abuse Records, 42 C.F.R. Part 2.