

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

312



FROM: Riverside County Information Technology (RCIT) and Riverside County Regional Medical Center

SUBMITTAL DATE:
November 17, 2014

SUBJECT: Implementation of an Electronic Healthcare Medical Record System in the County Jails and Juvenile Detention Facilities; and amend Salary Ordinance No. 440, pursuant to Resolution No. 440-8987. All Districts; [\$9,410,624]; Correctional Health operating budget over 10 years.

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and authorize the Chairman of the Board to execute the agreement with NaphCare, Inc., without obtaining competitive bids, in the amount of \$5,000,000 over a 10 year period, for purchase of software and professional services related to implementation of an Electronic Healthcare Medical Records system in the County jails and juvenile detention facilities; and
2. Approve an all-inclusive project and support budget, in the amount of \$9,410,624 over a 10 year period, which includes: software, implementation/licensing costs, hardware support and County implementation/support staff and hosting costs, as specified on page 2; and
3. Authorize the addition of three (3) RCIT positions to support the project, as listed in Attachment A, in accordance with Riverside County Board of Supervisors Policy C-19 and Salary Ordinance No. 440, Section 4(a)(ii), and amend Salary Ordinance No. 440, pursuant to Resolution No. 440-8987.

(Recommended motions continued on page 2.)

[Signature]
Zareh Sarrarian, RCRMC CEO
By Judi Nightingale, Chief
Nursing Officer

[Signature]
Christopher M. Hans
Interim Chief Information Officer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 1,413,476	\$ 867,794	\$ 9,410,624	\$ 867,794	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 1,413,476	\$ 867,794	\$ 9,410,624	\$ 867,794	

SOURCE OF FUNDS: Correctional Health operating budgets over 10 years
Budget Adjustment: No
For Fiscal Year: 14/15 - 22/23

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature BY: *[Signature]*
Jennifer L. Sargent

MINUTES OF THE BOARD OF SUPERVISORS

Lisa Brandl, Director
 Approved by Michael T. Stocker/
 Asst. County Executive Officer/
 Human Resources Director
 11-20-14
 ANITA C. WILLIS
 DATE
 FORM APPROVED COUNTY COUNSEL
 BY: *[Signature]*
 Purchasing & Fleet Services

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: | District: All | Agenda Number:

3-106

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: : Implementation of an Electronic Healthcare Medical Record System in the County Jails and Juvenile Detention Facilities; and amend Salary Ordinance No. 440, pursuant to Resolution No. 440-8987. All Districts; [\$9,410,624]; Correctional Health operating budget over 10 years.

DATE: November 17, 2014

PAGE: 2 of 3

RECOMMENDED MOTION: (continued)

4. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, to exercise renewal options, based on funding availability, and to sign amendments that do not change the substantive terms of the agreement.

BACKGROUND:

Summary (continued)

In 2008, the National Commission on Correctional Health Care (NCCHC) established best practice compliance indicators for jail inmates' health records. The indicators included: identifying information, laboratory reports, medical administration records, medical diagnoses, consent/refusal forms and known allergies.

NaphCare, Inc., created a software application developed specifically for the corrections healthcare environment for compliance with NCCHC requirements. In addition, use of an electronic medical record system will enable the management of inmate healthcare and health history more efficiently.

Through market research, there were three vendors that could potentially provide the necessary software. Each of the vendors' software solutions for corrections health electronic medical records applications was considered. However, during a site visit to Orange County, the impressive NaphCare system was observed in use and was determined to offer efficient workflow and ease of use features that cater to the Correctional Health inmate population, whereas the other vendors did not offer this specialty.

Sole Source Award

Orange County released a Request for Proposals for their Correctional Health electronic medical record system and spent a year evaluating the 14 responses received. Riverside County determined that Orange County used similar specifications for their corrections electronic medical record system and opted to informally use Orange County's procurement and evaluation process, in an effort to expedite implementation. Riverside County staff worked closely with Orange County staff to ensure the success of their system would be achievable here, as well.

SUPPLEMENTAL:

Additional Fiscal Information

Following is the cost detail for purchase and implementation of an electronic medical record project:

Description	1 st year cost	2 nd year cost	Annual cost 3 rd - 10 th yrs	Total cost over 10 yrs.
NaphCare agreement-software, licenses and implementation	\$500,000	\$500,000	\$500,000	\$5,000,000
County desktop/laptop hardware	187,000	-	-	374,000
County infrastructure costs	37,259	37,259	37,259	372,590
County system implementation support and hosting	689,217	330,535	330,535	3,664,034
TOTAL	\$1,413,476	\$867,794	\$867,794	\$9,410,624

* A hardware refresh during the fifth year of operation is included in the 10 year total cost.

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: : Implementation of an Electronic Healthcare Medical Record System in the County Jails and Juvenile Detention Facilities; and amend Salary Ordinance No. 440, pursuant to Resolution No. 440-8987. All Districts; [\$9,410,624]; Correctional Health operating budget over 10 years.
DATE: November 17, 2014
PAGE: 3 of 3

Contract History and Price Reasonableness

The annual cost of NaphCare’s software license and support is the same for 10 years with no escalators or financing costs.

System Support Staffing

RCIT is requesting the following three (3) positions to support the corrections electronic medical record system. The costs associated with these positions are included in the proposed project budget.

Job Code	Number of Positions	Classification
86119	+ 1	IT Supervising Business Systems Analyst
86117	+ 1	IT Business Systems Analyst III
86185	+ 1	IT User Support Technician III

Date: 11/17/14
From: Christopher Hans Department/Agency: RCIT
(Director or designee)
To: Board of Supervisors/Purchasing Agent
Via: Purchasing Agent
Subject: Sole Source Procurement; Request for (Software and application support services)

The below information is provided in support of my Department requesting approval for a sole source. Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole source.

1. Supply/Service being requested:

Electronic Health Record software for healthcare provided to detainees in Riverside County jails.

2. Supplier being requested:

NaphCare, Inc.

3. Alternative suppliers that can or might be able to provide supply/service:

The County of Orange Issued an RFP and took a year to evaluate 14 respondents. The winner of that process was NaphCare. The County of Orange has been consulted extensively and a site visit was conducted. The Orange County Corrections Health team is very happy with the product thus far. The marketplace has not changed appreciably since the OC RFP process.

4. Extent of market search conducted:

All of the vendors providing corrections health applications were considered. Gartner analysts were consulted and interviews were also conducted with the leader of the Orange County selection team.

5. Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:

The TechCare application was developed specifically for the corrections health care environment. The features, benefits and workflow of the application were designed with the detainee environment as the target and only health care situation considered.

6. Reasons why my department requires these unique features and what benefit will accrue to the county:

Efficient workflow and easy to use features are essential to managing costs and maintaining service. TechCare is designed to be easy to use and facilitate delivery of health services in the detainee environment.

7. Price Reasonableness including purchase price and any ongoing maintenance or ancillary costs from the supplier:

The TechCare application was the winner of the Orange County RFP. Riverside County's price is in line with Orange County's, considering we have a more extensive implementation, i.e. more

deployment sites. The annual cost of the software license and support costs from the vendor is the same for 10 years with no escalators. The County's internal costs will rise with the cost of living but the FTE required should not increase over time unless the application requirements change. Hardware requirements may change incrementally as more data is stored and managed and as the number of users supported increases. The Sheriff has estimated that the inmate population may double over the next 10 years.

8. **Does moving forward on this product or service further obligate the county to future similar contractual arrangements or any ongoing costs affiliated with this sole source?** *(Maintenance, support, or upgrades, if so, please explain).*

No.

9. **Period of Performance:** *(Provide a defined period of performance. Please note multi-year terms require Board approval, unless renewable in one year increments and the Purchasing Agent approves the terms.)*

No.

11.20.14

Department Head Signature

Date

Purchasing Department Comments:

Approve

Approve with Condition/s

Disapprove

Not to exceed: \$ 5,000,000

One time

Annual Amount through Fy 2024/25

11/20/14

15-308

Purchasing Agent

Date

Approval Number
(Reference on Purchasing Documents)



RIVERSIDE COUNTY INFORMATION TECHNOLOGY PROCUREMENT FORM
To be completed for all departmental purchases of IT systems, services or renewals

PR2014-01959
Tracking Number for
Internal Use Only

9/30

REQUESTED PURCHASE:	CORRECTIONAL ELECTRONIC HEALTH CARE RECORD SYSTEM														
DEPARTMENT/AGENCY:	RCRMC / DETENTION HEALTH SERVICES														
CONTACT NAME/PHONE:	BILL WILSON 951-955-4491														
PURCHASE REQUEST:	<input checked="" type="checkbox"/> NEW EQUIPMENT/SERVICES	<input type="checkbox"/> UPGRADE	<input type="checkbox"/> REPLACEMENT												
PURCHASE TYPE:	<input type="checkbox"/> PROFESSIONAL SERVICES	<input checked="" type="checkbox"/> SOFTWARE	<input checked="" type="checkbox"/> HARDWARE <input type="checkbox"/> RENEWAL												
DESCRIBE REQUESTED PURCHASE	<p>A correctional specific electronic health record system that will interface with the facilities and systems of the Riverside Sherriff Office, Forensic Mental Health, Probation/Juvenile Halls and Riverside County Regional Medical Center.</p> <p>Sole Source</p>														
BUSINESS NEEDS ADDRESSED	<p>There is an urgent need to provide a system that allows for the coordination and integration of healthcare services provided to those incarcerated in Riverside County's correctional facilities, both adult and juvenile. No current system exists.</p>														
ARE THERE ANY OTHER COUNTY SYSTEMS THAT PROVIDE THE SAME FUNCTIONALITY?	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input type="checkbox"/> UNKNOWN												
BUSINESS CRITICALITY	BUSINESS IMPACT (SELECT ALL THAT APPLY)														
<input checked="" type="checkbox"/> Run the business	<input checked="" type="checkbox"/> Support current operations														
<input type="checkbox"/> Grow the business	<input type="checkbox"/> Reduce Expenses														
<input checked="" type="checkbox"/> Transform the business	<input checked="" type="checkbox"/> Improve Customer Service														
	<input checked="" type="checkbox"/> Improve Operational Efficiencies														
BUSINESS RISKS	<p>Financial: Risks of not implementing a system greater than cost of doing so.</p> <p>Customer: Need to ensure the standard of care, continuity of care and patient safety, as patients move between health care systems.</p>														
ALTERNATIVE SOLUTIONS	<p>1. [None]</p> <p>2. [Solution]</p> <p>3. [Solution]</p>														
TRANSACTION	<input type="checkbox"/> Cash Purchase	<input checked="" type="checkbox"/> Lease Purchase	Lease Years: <u>10</u>												
PURCHASE COSTS	COST BENEFIT ANALYSIS														
Hardware: \$200,000	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>ALTERNATIVE STATUS QUO</th> <th>ALTERNATIVE</th> <th>ALTERNATIVE</th> </tr> </thead> <tbody> <tr> <td>Current Annual Cost</td> <td>\$0.00</td> <td></td> <td></td> </tr> <tr> <td>Ongoing Annual Cost</td> <td>\$490,000</td> <td></td> <td></td> </tr> </tbody> </table>				ALTERNATIVE STATUS QUO	ALTERNATIVE	ALTERNATIVE	Current Annual Cost	\$0.00			Ongoing Annual Cost	\$490,000		
	ALTERNATIVE STATUS QUO	ALTERNATIVE	ALTERNATIVE												
Current Annual Cost	\$0.00														
Ongoing Annual Cost	\$490,000														
System: \$4,700,000															



RIVERSIDE COUNTY INFORMATION TECHNOLOGY PROCUREMENT FORM
 To be completed for all departmental purchases of IT systems, services or renewals

Tracking Number for
Internal Use Only

Labor: \$ TOTAL COST: \$4,900,00	Annual Cost Savings	\$0.00		
	Net Annual Savings	\$0.00		
	Project Implementation Cost			
	Project Payback Period? yrs			
	\$4,900,000 (\$4,700,000 System Cost) (\$200,000 Hardware Cost)			
Department Head Signature: Bill Wilson		Date: 9/29/14		

RCIT RECOMMENDATION – for purchases and renewals under \$100,000

Recommended: Yes No (Non-recommended requests submit to TSOC)

By: *Wesley P. Colver* Date: *9/30/2014*

Chief Information Officer Signature: *[Signature]* Date:

RCIT explanation for non-recommended requests:

TSOC RECOMMENDATION: for purchases and renewals over \$100,000 and RCIT non-recommended purchases or renewals

Recommended: Yes No (In no, provide explanation below)

TSOC Chair Signature: *[Signature]* Date: *10/1/14*

TSOC explanation for denied requests:

...the first of these is the fact that the ...

...the second of these is the fact that the ...

...the third of these is the fact that the ...

...the fourth of these is the fact that the ...

...the fifth of these is the fact that the ...

...the sixth of these is the fact that the ...

...the seventh of these is the fact that the ...

...the eighth of these is the fact that the ...

...the ninth of these is the fact that the ...

AGREEMENT

for

CORRECTIONAL HEALTH ELECTRONIC HEALTH RECORD (EHR) SYSTEM

between

COUNTY OF RIVERSIDE

and

NAPHCARE, INC.



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Attachment I- Iron Mountain Escrow Agreement.....

Attachment II- HIPAA Business Associate Terms

This Agreement, made and entered into this 1st day of December 2014 ("Effective Date") and between Naphcare, Inc., (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

1. Description of Services

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Definitions, Exhibit B, Warranty and License Terms, Exhibit C, Statement of Work, Exhibit D, Payment Provisions, Exhibit E, Riverside County Security Requirements Policy A-58, Exhibit F, Trustworthy Official Electronic Records Preservation Policy A-68, Attachment I, Iron Mountain Escrow Agreement, and Attachment II, HIPAA Business Associate terms. All these documents are attached to and incorporated into this Agreement; and CONTRACTOR shall comply with all of their terms.

1.2 CONTRACTOR represents that it has the skills, experience, and knowledge necessary to perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit D. CONTRACTOR is not to perform services or provide products beyond what is stated in the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

2. Period of Performance

2.1 This Agreement shall be effective upon the Effective Date and continue in effect through December 31, 2015, with the option of the COUNTY to renew for nine (9) additional years. Each year shall be renewable in one year increments by written amendment. CONTRACTOR shall commence performance upon the Effective Date and shall diligently and continuously perform thereafter. The Riverside County Board of Supervisors is the only authority that may obligate the COUNTY for a non-cancelable multi-year agreement.

3. Compensation

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit D, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$500,000.00 annually including all expenses. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in Exhibit D, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

3.2 CONTRACTOR agrees to accept the specified compensation in Exhibit D as full payment for: the licensing of all Licensed Software; the performing of all services and furnishing of all staffing and materials and other expenses as set forth in this Agreement; any reasonably foreseeable difficulties which may arise or be encountered in the performance of this Agreement; and for proper performance by CONTRACTOR of all its duties and obligations.

3.3 CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY; and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside County Regional Medical Center Finance Department

Attn: Steven Chu

26250 Cactus Avenue

Moreno Valley, Ca 92555

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number (DHARC-20655-001-12/15); quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.

3.4 The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for

payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated and have no further force and effect.

4. Alteration or Changes to the Agreement

4.1 The Board of Supervisors and the COUNTY Purchasing Agent and/or her designee are the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

4.2 Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, she may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

5. Termination

5.1. COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

5.2 CONTRACTOR may terminate this Agreement without cause upon 180 days written notice served upon the COUNTY stating the intent and effective date of termination. CONTRACTOR will return funds to COUNTY on a pro-rata basis, if applicable.

5.3 COUNTY may, upon fifteen (15) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

5.4 After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

5.5 After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement.

5.6 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

5.7 CONTRACTOR is not debarred from the System for Award Management (SAM). If the Agreement is federally or State funded, CONTRACTOR must notify the COUNTY immediately of a debarment. Reference: System for Award Management (SAM) at <https://www.sam.gov> for Central Contractor Registry (CCR), Federal Agency Registration (Fedreg), Online Representations and Certifications Application, and Excluded Parties List System (EPLS)). Excluded Parties Listing System (EPLS) (<http://www.epls.gov>) (Executive Order 12549, 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17). The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of CCR/FedReg, ORCA, and EPLS.

5.8 The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

6. Ownership/Use of Contract Materials and Products

Except as otherwise stated in this Agreement, the CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY. The material, reports or products may be used by the COUNTY for any purpose that the COUNTY deems to be appropriate, including, but not limit

to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports, or products without prior written authorization of the COUNTY.

7. Conduct of Contractor

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of its duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

8. Inspection of Service; Quality Control/Assurance

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services

performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

9. Independent Contractor/Employment Eligibility

9.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

9.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.

9.3 Ineligible Person shall be any individual or entity who:

Is currently excluded, suspended, debarred or otherwise ineligible to participate in the federal health care programs; or has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the federal health care programs after a period of exclusion, suspension, debarment, or ineligibility.

9.4 CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement. CONTRACTOR shall not hire or engage any Ineligible Person to provide services directly relative to this Agreement. CONTRACTOR shall screen all current Covered Individuals within sixty (60) days of execution of this Agreement to ensure that they have not become Ineligible Persons unless CONTRACTOR has performed such screening on same Covered Individuals under a separate agreement with COUNTY within the past six (6) months. Covered Individuals shall be required to disclose to CONTRACTOR immediately any debarment, exclusion or other event that makes the Covered Individual an Ineligible Person. CONTRACTOR shall notify COUNTY within five (5) business days after it becomes aware if a Covered Individual providing services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an Ineligible Person.

9.5 CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal and state funded health care services by contract with COUNTY in the event that they are currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person, CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY business operations related to this Agreement.

9.6 CONTRACTOR shall notify COUNTY within five (5) business days if a Covered Individual or entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened. Such individual or entity shall be promptly removed from participating in any activity associated with this Agreement.

10. Subcontract for Work or Services

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

11. Disputes

11.1 The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

11.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

12. Licensing and Permits

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

13. Use By Other Political Entities

The CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity

in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

14. Non-Discrimination

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Records and Documents

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State, or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

16. Confidentiality

16.1 The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

16.2 The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall

not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particulars assigned to the individual, such as finger or voice print or a photograph.

16.3 The CONTRACTOR is subject to and shall operate in compliance with all relevant requirements contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, enacted August 21, 1996, and the related laws and regulations promulgated subsequent thereto. Please refer to Attachment II of this agreement.

17. Administration/Contract Liaison

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY.

18. Notices

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

COUNTY OF RIVERSIDE

Purchasing and Fleet

2980 Washington St.

Riverside, CA 92504

Attn: Ines Mark

CONTRACTOR

NaphCare, Inc.

2090 Columbiana Road, Suite 4000

Birmingham, AL 35216

Attn: James S. McLane, Chief Executive Officer

19. Force Majeure

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

20. EDD Reporting Requirements

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent Contractor(s) form DE 542 to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at www.edd.ca.gov.

21. Hold Harmless/Indemnification

21.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend, at its sole expense, all costs, and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions. CONTRACTOR shall not be liable or responsible for the sole negligence of COUNTY and/or its Indemnitees.

21.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim

without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

21.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

21.4 The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

21.5 CONTRACTOR warrants that it has authority to grant COUNTY licenses to use the Licensed Software described in this Agreement and that the Licensed Software does not infringe upon or violate any United States patent, copyright, trade secret, trademark or any other proprietary right of any third party. The foregoing notwithstanding, CONTRACTOR shall have no liability for: (i) the combination, operation, or use of any Licensed Materials with equipment, devices, or software not supplied by CONTRACTOR if such claim would not be valid but for such combination, operation, or use; (ii) modification of any Licensed Materials other than by or on behalf of CONTRACTOR; (iii) CONTRACTOR's compliance with COUNTY's designs, specifications, or instructions; or (iv) COUNTY's use of the Licensed Materials after CONTRACTOR has informed COUNTY of modifications or changes in the Licensed Materials required to avoid such claims if such claim would have been avoided by implementation of CONTRACTOR's recommended modifications and CONTRACTOR has offered to pay COUNTY's out-of-pocket costs of implementing any such modifications.

22. Insurance

22.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

A. Workers' Compensation:

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside.

B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability:

If vehicles or mobile equipment is used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned, or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

D. Professional Liability:

Contractor shall maintain Professional Liability Insurance providing coverage for the Contractor's performance of work included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If Contractor's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and CONTRACTOR shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of

Insurance that CONTRACTOR has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

E. General Insurance Provisions - All lines:

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and

certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier shall sign the original endorsements for each policy and the Certificate of Insurance.

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the Statement of Work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

8) CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

23. General

23.1 CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

23.2 Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full, and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

23.3 In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

23.4 CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

23.5 CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims, or encumbrances.

23.6 Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

23.9 CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

23.10 CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

23.11 This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23.12 This Agreement constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

COUNTY OF RIVERSIDE

NAPHCARE, INC.

Signature: _____

Signature: _____

Print Name: _____

Print Name: James S. McLane

Title: Chairman of the Board of Supervisors

Title: Chief Executive Officer

Date: _____

Date: _____

November 17, 2014

FORM APPROVED COUNTY COUNSEL
BY: *Neal R. Kipnis* DATE: *11/20/14*
NEAL R. KIPNIS DATE

EXHIBIT A
DEFINITIONS

I. DEFINITIONS

For purposes of this Agreement, the following specific definitions shall apply:

A. Agreement shall mean this Agreement, the signature page, any amendments, Exhibits and Attachments.

B. Attachment shall mean any document so designated and affixed to and made part of this Agreement or any Exhibit to this Agreement.

C. CONTRACTOR shall mean NaphCare, Inc., an Alabama corporation, and its permitted successors and assigns.

D. Confidential Information shall mean all technical, business, financial and other information that is disclosed by either party to the other, whether orally or in writing, all individually-identifiable patient information, information relating to the status of installation or implementation of the System, any disputes or disagreements between the parties, the System, Work Product and all non-publicly available information related to CONTRACTOR products, services and/or methodologies, unless otherwise precluded by applicable law. "Confidential Information" will not include any information:

1. That is publicly available through no breach of this Agreement by COUNTY or CONTRACTOR,
2. That is independently developed or was previously known by COUNTY or CONTRACTOR,
3. That is rightfully acquired by COUNTY or CONTRACTOR from a third party who is not in breach of an agreement to keep such information confidential.

E. Content means the methodologies, knowledge-based healthcare assessments and clinical pathways, medical vocabularies, rules, alerts and insights provided by CONTRACTOR under this Agreement.

F. Correctional Health Care Services (CHCS) and COUNTY shall each mean Riverside County, a political subdivision of the State of California.

G. Data means all (a) data that is collected, stored, or generated through the use of the Licensed Software and (b) CONTRACTOR-requested data that is not collected, stored, nor

generated through the use of the Licensed Software, in each case requested by CONTRACTOR and subsequently transmitted to, or retrieved by CONTRACTOR for storage.

H. Designated Facility shall mean the COUNTY location that will house the host data center and the Licensed Software.

I. Documentation shall mean the printed and on-line materials that assists the COUNTY in using the System and which is actually delivered to COUNTY by CONTRACTOR. The CONTRACTOR and its suppliers reserve the right to modify Documentation to reflect changes in Sublicensed Software and Licensed Software during the term of the Agreement, none of which shall adversely affect the operation or specifications for the System.

J. Effective Date shall mean the date stated on page 4 of this Agreement.

K. Equipment Operating System Sublicensed Software shall mean the operating system software.

L. First Productive Use shall mean with respect to a module of Licensed Software or the entire System, COUNTY's first use of such module or the System, as the case may be, to send patient, health plan or materials information for clinical, financial or operational use, excluding beta, testing or other non-operational use.

M. Implementation shall mean the process by which the Licensed Software and System are optimized for use in COUNTY's clinical, financial and administrative environment.

N. Licensed Software shall mean the current version (as of the Effective Date) of the Electronic Health Record (EHR) software application offered by CONTRACTOR known as "TechCare," in object/executable (and/or encrypted source code) form only, and any associated database structures and queries, interfaces, tools, and the like, together with any and all revisions, modifications, and updates thereof, as may be supplied by CONTRACTOR to COUNTY pursuant to this Agreement.

O. Material Error shall mean either an error that adversely affects operation of the entire System or that creates a serious loss of functionality important in the daily operation of a single module (e.g., Blood Bank) and for which a work around is not available.

P. New Release shall mean the distinctly identified (e.g. Release XXX.XX.XX for CONTRACTOR products), comprehensive collection and packaging of an upgrade or modification to the Licensed Software and supporting Documentation components at a distinct

point in time within a product's life cycle that CONTRACTOR makes generally commercially available.

Q. Permitted User or User shall mean authorized employees of COUNTY and its authorized third party contractors and providers which have access to the System and who will have a unique password and sign-on ID.

R. Product Descriptions shall mean the Software Product Descriptions (SPD) for the System.

S. Scope of Use shall mean the limitations on COUNTY's use of the System as set forth in the Agreement.

T. Sublicensed Software shall mean all Equipment Operating System Sublicensed Software and Third Party Application Sublicensed Software and/or third party content.

U. System or EHR System shall mean the Equipment, Sublicensed Software and Licensed Software which collectively constitute a discrete integrated health information system that has the functionality and conforms to the needs of the COUNTY as outlined in the Agreement.

V. Third Party Application Sublicensed Software shall mean any application software and database not proprietary to CONTRACTOR.

W. Work Product shall mean any customized or custom computer software programs, Documentation, techniques, methodologies, inventions, analysis, frameworks, software, or procedures developed, conceived or introduced by CONTRACTOR in the course of or as the result of CONTRACTOR performing professional services, installation services, Implementation services, issue resolution or other Support services, whether acting alone or in conjunction with COUNTY or its employees, affiliates or others.

X. Riverside County Number (RCN) identifier. A unique patient identification number assigned for each inmate.

Y. Statement of Work (SOW) shall mean the detailed deliverable or performance required from the CONTRACTOR or the Licensed Software pursuant to this Agreement. This may also be referred as the Scope of Work.

Z. Electronic Health Records (EHR) is a systematic collection of electronic health information about an individual patient or population. It is a record in digital format that is theoretically capable of being shared across different health care settings. Sharing shall occur by

way of network-connected, enterprise-wide information systems and other information networks or exchanges. "EHR System" is the system purchased by COUNTY under this Agreement, which may also be referred to as "System", "system" or "EHR project".

EXHIBIT B
WARRANTY AND LICENSE TERMS

I. WARRANTIES

A. Equipment, Software and System:

1. Pass-Through Provisions: CONTRACTOR shall assign and pass through to COUNTY any Equipment and Sublicensed Software end-user warranties that are transferrable set forth by the supplier of such Equipment and Sublicensed Software. CONTRACTOR shall interface directly with said supplier of any Equipment and or Sublicensed Software in the event of any breach of any such warranty as COUNTY may notify CONTRACTOR.

2. CONTRACTOR's Warranty: CONTRACTOR warrants that, beginning upon the date of First Productive Use and extending during such period as COUNTY is on Support, the Licensed Software will perform in all material respects the functions to which both parties have mutually agreed to in writing as reflected by this Agreement, when operated in accordance with the Documentation and in the environment for which CONTRACTOR designed the Licensed Software to operate. In the event of a breach of this warranty, CONTRACTOR will repair or replace the failing item of Licensed Software so that it does perform in accordance with such warranty. If, however, after repeated efforts (not to exceed three months from the date CONTRACTOR receives written notice from COUNTY concerning the warranty breach), CONTRACTOR is unable to repair or replace the failing item of Licensed Software so that it performs in accordance with such warranty and the failing item of Licensed Software is material to the operation of the entire System, COUNTY may, at CONTRACTOR's expense, return the failing item of Licensed Software and receive a refund of all license fees paid for the item of Licensed Software (fees shall be calculated based on the time period in which the Licensed Software failed) as well as the System Support fees paid for the item of Licensed Software since the failure was first reported to CONTRACTOR. COUNTY's rights under this paragraph constitute its sole and exclusive remedy and CONTRACTOR's sole and exclusive obligations with respect to any breach of this warranty.

3. CONTRACTOR Disclaimer of Responsibility for Medical Use:

COUNTY shall communicate to each authorized user of the software and system that the software/system is a support tool only and expressly is not to be relied upon as a sole source of information in connection with medical advice or the provision of medical services.

4. CONTRACTOR Disclaimer of All Other Warranties:

The CONTRACTOR warranties contained in this Agreement and the Exhibits hereto extend to and are for the benefit of COUNTY and its permitted successors and assigns only. CONTRACTOR makes no representations or warranties concerning either the Equipment, the Sublicensed Software (or other programs supplied to COUNTY by CONTRACTOR and which are directly licensed to COUNTY by a third party, or which are supplied by a third party to COUNTY), the Licensed Software, the System, subscription services, Maintenance or Support, nor does CONTRACTOR undertake any further obligations whatsoever. The foregoing warranties are in lieu of, and CONTRACTOR hereby expressly disclaims, all other warranties, both express and implied, including but not limited to the implied warranties of merchantability and of fitness for a particular purpose and non-infringement with respect to any and all products or services or portions thereof provided hereunder. Each party represents and warrants that the person executing this Agreement on behalf of and for such party is an authorized agent who has actual authority to bind such party to each and every term, condition and obligation of this Agreement and that all requirements of such party have been fulfilled to provide such actual authority.

II. PATENT COPYRIGHT MATERIALS

Unless otherwise expressly provided in this Agreement, CONTRACTOR shall be solely responsible for clearing or securing the right to use any patented or copyrighted materials included in the Licensed Software supplied by or through CONTRACTOR in the performance of this Agreement.

III. TITLE OF DATA

All materials, documents, data, source code for data structures, or information in each case obtained from COUNTY data files or any COUNTY medium furnished to CONTRACTOR in the performance of this Agreement will at all times remain the property of

COUNTY. Such Data or information may not be used or copied for direct or indirect use by CONTRACTOR after completion or termination of this Agreement. All materials, documents, Data, or information, including copies, must be returned to COUNTY at the end of this Agreement. COUNTY shall have no ownership interests and rights to CONTRACTOR'S Software System as set forth further in Exhibit C Statement of Work to the Agreement.

IV. SOFTWARE

A. License Grant: Subject to the terms and conditions of this Agreement, CONTRACTOR grants to COUNTY a non-exclusive, non-transferable, fully paid, license to use the Licensed Software solely as specified in this Agreement. This license shall include all New Releases to the Licensed Software and hereby shall apply to the COUNTY, and all agencies thereof, and all Permitted Users and Users of the COUNTY or any agencies thereof.

B. Scope of Use:

1) SPD - TechCare is an EHR system designed to track the health status of the incarcerated populations of our client facilities. This begins with the inmate's admission into the facility and continues until his/her release. TechCare provides a consistent, standardized approach to correctional healthcare, based on the National Commission on Correctional healthcare (NCCHC) and the American Correctional Association (ACA) standards.

2) Permitted Users may use the Licensed Software solely in accordance with the Scope of Use specifications defined in Exhibit C to the Agreement. COUNTY may subsequently expand its Scope of Use and number of Permitted Users by paying CONTRACTOR's fee as set forth in Exhibit D to the Agreement for expansion of COUNTY's Statement of Work pursuant to the procedures set forth in Exhibit C.

3) CONTRACTOR shall provide COUNTY with a copy of the Licensed Software. COUNTY shall have the right to make sufficient back-up and archival copies to support its permitted use of the Licensed Software, provided that the intellectual property contained in such copies shall remain the property of CONTRACTOR. No right to use, print, copy, modify, create derivative works of, adapt, translate, distribute, disclose, decompile or reverse engineer the Licensed Software is granted, except as expressly set forth in this

Agreement. CONTRACTOR hereby reserves all rights not expressly granted hereunder.

4) The Licensed Software shall reside at the Designated Facility, or, upon written notice to CONTRACTOR, COUNTY's designated data processing location which shall become a Designated Facility upon such notice. COUNTY may, upon advance written notice to CONTRACTOR, permanently move the Licensed Software to a different data processing location under the control of COUNTY. COUNTY shall not outsource its operation of the Licensed Software to any third party without CONTRACTOR's prior written consent.

C. Sublicense Grant:

1) Subject to the terms and conditions of this Agreement, CONTRACTOR grants to COUNTY a non-exclusive, non-transferable sublicense to use the Sublicensed Software on the terms and conditions which are set forth for end-users in the underlying license granted to CONTRACTOR by the Sublicensed Software supplier.

2) If execution by COUNTY of a separate sublicense agreement is required by a Sublicensed Software supplier, CONTRACTOR shall so inform COUNTY. In such case, COUNTY shall either execute same or be denied access to that portion of the Sublicensed Software. If COUNTY declines to execute the supplier's sublicense agreement, CONTRACTOR shall assist COUNTY in negotiating changes to the standard terms.

3) CONTRACTOR shall have no responsibility for any impairment to Equipment, Sublicensed Software or Licensed Software functionality, reliability or performance occasioned by the absence of such item of Sublicensed Software until such sublicense has been obtained and, if necessary, executed by COUNTY. Unless the CONTRACTOR has recommended the use of such Equipment and Sublicensed Software in connection with the System and represents that the Equipment and Sublicensed Software will operate properly within (i.e., be integrated to work with) the System. CONTRACTOR does not make any warranties or guarantees regarding functionality, reliability or performance of the Equipment and/or Sublicensed Software. In the event of any warranty, claim or support relating to any Equipment or Sublicensed Software, CONTRACTOR shall interface with the manufacturer of the Equipment or licensor of such Sublicensed Software to obtain all necessary support or remedies available pursuant to applicable warranties from the

manufacturer or licensor or CONTRACTOR's support obligations hereunder.

D. COUNTY is fully responsible for all supporting infrastructure including but not limited to servers, virtualization, operating system software, database software, computers, network equipment, etc., including its configuration.

V. SOFTWARE OWNERSHIP

A. Intellectual Property Rights:

COUNTY acknowledges that, the Licensed Software is Confidential Information of and proprietary to CONTRACTOR, and all rights and patents, copyrights, trade secrets and trademarks existing in respect of the Licensed Software are retained by CONTRACTOR. In respect to the operation, maintenance and enhancement if any to the System, COUNTY will take all reasonable steps to maintain CONTRACTOR's rights in the Software, at least to the same extent COUNTY takes with respect to the protection of its own Confidential Information and proprietary software, which steps shall consist of those set forth below in this Paragraph. COUNTY also agrees that it will not sell, transfer, publish, display, dispose or make the Licensed Software (or any copies of the Licensed Software) available to third parties, except that:

1) Nothing contained herein limits, conditions or constrains in any respect the right and the ability of COUNTY to disseminate, publish, disclose, sell or otherwise make available to any party the Data collected by the System or reports of such Data generated by COUNTY using the Licensed Software, in whole or in part: and

2) COUNTY may disclose the Licensed Software to any consultant, independent contractor, provider or other third party retained by the COUNTY in connection with the use or operation of the Licensed Software provided, however, that in such event the COUNTY shall obtain the written agreement of the consultant, independent contractor, provider or other third party to whom such any such disclosure is made, not to disclose any such information to third parties, copy of any such information, or use any such information for any commercial purpose other than the satisfaction of contractual obligations of such parties to COUNTY, and the written agreement to take reasonable steps to protect the proprietary interest of

CONTRACTOR in Licensed Software, consistent with the obligations of the COUNTY set forth herein. The obligations of COUNTY herein do not extend or apply to any information or Data comprising all or part of the Licensed Software which is in the public domain, by reason of any acts, activities or failures to act which are not a direct result of action or inaction by COUNTY.

3) In connection therewith, COUNTY agrees that:

a. Prior to granting access and/or disclosure, COUNTY shall notify CONTRACTOR to the extent reasonably practicable if COUNTY determines that the law or an order of a court or other government agency requires a non-permitted disclosure or use of the Licensed Software;

b. COUNTY shall maintain written records of the number and location of all copies of the Licensed Software;

c. COUNTY shall reproduce (and refrain from removing or destroying) all copyright and proprietary rights notices that are placed upon or within the Licensed Software;

d. COUNTY shall erase or otherwise destroy, prior to disposing of media, all portions of the Licensed Software contained on such media; and

e. COUNTY shall notify CONTRACTOR within five (5) business days in writing upon learning of any unauthorized disclosure or use of the Licensed Software, and cooperate fully with CONTRACTOR, within five (5) business days, to cure any unauthorized disclosure or use of the Licensed Software.

B. Possession and Use of Source Code: CONTRACTOR shall place the source code in an escrow account with Iron Mountain. If Source Code is obtained by COUNTY through escrow, such Source Code shall remain subject to every license restriction, proprietary rights protection, and other COUNTY obligations specified in this Agreement. COUNTY may use Source Code for the sole purpose of supporting its use of the Licensed Software as expressly permitted under this Agreement, and for no other purpose whatsoever. When Source Code resides in a central

processing unit, COUNTY shall limit access to its authorized employees who have a need to know in order to support the Licensed Software. COUNTY shall at all times implement strict access security measures in order to prevent unauthorized disclosure, use, or removal of Source Code. COUNTY also agrees that all persons with access to the Source Code shall execute confidentiality agreements consistent with the obligations of COUNTY hereunder. Source code held in escrow may be tested for authenticity and reliability at designated times by COUNTY.

C. Software Ownership:

1) COUNTY will not decompile or disassemble any Licensed Software provided under this Agreement. COUNTY will make and maintain copies of the Licensed Software for archiving, disaster recovery, backup, fault tolerance and parallel processing procedures of the Licensed Software and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original.

2) If COUNTY's computers on which any item of Licensed Software is licensed become temporarily unavailable, use and license of such software may be temporarily transferred to an alternative COUNTY computer.

3) This Agreement does not transfer to COUNTY title to any intellectual property contained in any Licensed Software, Documentation or proprietary information.

4) Documentation licensed hereunder does not include any materials designed for or used in the Maintenance of Equipment. The COUNTY shall take all reasonable precautions to safeguard the Licensed Software, manuals, documents, and media and to use its commercially reasonable best efforts not to make available the Licensed Software in any form to any third party, except for COUNTY employees, consultants, independent contractors, providers or other third parties under contract with COUNTY directly concerned with COUNTY's licensed use of the System, subject to the conditions set forth in this Agreement.

VI. STANDARDS OF SYSTEM PERFORMANCE

A. The System must perform at COUNTY acceptable performance levels as set forth in the Agreement. From the period of First Productive Use the System shall: perform in a manner that will not impede or significantly impact the performance of routine and normal System-related operational tasks; perform critical processes that are executed at the server level; and function in a consistent and dependable manner, recognizing that the COUNTY operates in a demanding twenty four (24) hours a day, seven (7) days a week production environment in which high-availability is critical. The parties agree that System performance is a joint responsibility of COUNTY and CONTRACTOR to the extent under control by each party. CONTRACTOR agrees to provide Support and Maintenance services in accordance with the applicable terms set forth under during the entire term of the Agreement.

B. CONTRACTOR agrees that it will not knowingly commit to any new project in such a manner as it would materially interfere with the scheduling or delivery of the products or services to COUNTY as detailed and set forth herein.

C. Project Schedule:

1) Site Preparation. COUNTY will have its Designated Facility(s) prepared for the EHR project by the Effective Date of this Agreement. In the event the site(s) is/are not prepared by such date, COUNTY acknowledges that the project schedule may be delayed and that, if applicable, CONTRACTOR may make a change order application to COUNTY.

2) Installation Responsibilities. CONTRACTOR and COUNTY will each perform the specific tasks identified in Exhibit C to the Agreement for the EHR project.

3) Project Team Environment. COUNTY shall provide CONTRACTOR personnel a designated work area, access to facilities, access to systems, including VPN level access for the term of the Agreement, and other items identified in the SOW, set forth herein as Exhibit C, as items reasonably necessary for CONTRACTOR's

personnel to provide the Services set forth in this Agreement. CONTRACTOR employees will be subject to background checks related to IT systems access and if CONTRACTOR employees are removed from employment, CONTRACTOR will inform COUNTY within five (5) days.

4) The Services performed under this Agreement shall be done in accordance with Exhibit C to the Agreement, which may be revised at the option of COUNTY with CONTRACTOR's concurrence. Each party shall be responsible for schedule adherence as outlined in this Agreement.

D. Pre-Production Acceptance Period:

COUNTY agrees to use its commercially reasonable best efforts to identify for CONTRACTOR in writing those issues arising out of the required work performed as stated in the SOW, during the Pre-Production Acceptance Period in a non-production environment which, if not resolved to COUNTY's satisfaction, could cause COUNTY to delay Acceptance in the Production Acceptance Period. COUNTY and CONTRACTOR agree that First Productive Use with respect to the required work performed as stated in the SOW, shall not occur until such pre-production issues are either resolved to COUNTY's satisfaction or until COUNTY agrees in writing that such issues will not be used as a basis for COUNTY to withhold Acceptance in the Production Acceptance Period. Any acceptance by COUNTY shall not be unreasonably withheld.

E. Production Acceptance Period:

1) The Production Acceptance Period allows COUNTY to verify the functionality in a production environment, and to identify issues occurring during or after First Productive Use of the solutions delivered in the SOW, which could cause COUNTY to delay Acceptance. Should COUNTY become aware of any Material Errors with the delivery of the solutions set forth in the Exhibit C, COUNTY shall promptly send CONTRACTOR a Notice of Noncompliance which shall include a written, reasonably detailed description of each known discrepancy or failure. CONTRACTOR shall then have the remainder of the Production Acceptance Period to resolve the discrepancies so identified and reported. COUNTY shall, upon

CONTRACTOR's request, test any modifications during this period.

2) The Production Acceptance Period for the required work performed as stated in the Exhibit C shall begin upon First Productive Use and shall continue for a period of ninety (90) days, at which time the parties shall deem the Licensed Software accepted unless CONTRACTOR receives a written Notice of Noncompliance from COUNTY within five (5) business days following the last day of the Production Acceptance Period. If CONTRACTOR receives a Notice of Noncompliance from COUNTY, the test process shall be extended on a day-to-day basis, until the earlier of the following:

a) The applicable module of Licensed Software delivered under the Exhibit C performs in accordance with the Product Descriptions and in compliance with the Exhibit C, without Material Error and for a period of sixty (60) continuous days, the functions with respect to the defects listed in the Notice of Noncompliance, or;

b) CONTRACTOR notifies COUNTY in writing that the maximum level of functionality (as defined in the Product Descriptions) has been achieved; and that said level of functionality does not result in any material revision or limitation to CONTRACTOR's commitments as specified in this Agreement, at which time COUNTY shall be deemed to have automatically accepted the Licensed Software as it exists at that time, unless COUNTY, as COUNTY's exclusive remedy, terminates this Agreement upon written notice to CONTRACTOR, as set forth in the Termination Paragraph of the Agreement, in writing within fifteen (15) business days after receipt of CONTRACTOR's notice of maximum functionality, or

c) In the event the System has failed to perform without Material Error for a period of at least sixty (60) days following the initial Notice of Noncompliance from COUNTY, COUNTY may terminate this Agreement upon notice to CONTRACTOR as set forth in the Termination Paragraph of the Agreement.

VII. HOURS POOL

A. COUNTY and CONTRACTOR agree that for the project implementation, testing, training and support, CONTRACTOR shall provide, as a part of the costs outlined in Exhibit D, a total of three thousand five hundred (3500) labor hours (hereinafter referred to as 'Hours Pool'). It is agreed that said Hours Pool shall be subject to the terms, conditions and approval by COUNTY as set forth in the Agreement until such time that the Hours Pool is exhausted. Upon the Hours Pool being exhausted, the rates set forth in this Agreement are available only for in-scope work and only valid for years two (2) through ten (10). CONTRACTOR shall maintain the accounting of the Hours Pool outlining the services rendered as identified in this Agreement and shall provide a detailed report to COUNTY on a monthly basis or other timeframe as agreed upon by both parties.

B. Both parties agree that the Hours Pool may be increased at any time during the course of the Agreement by either:

1. The COUNTY purchasing additional hours at the negotiated rate of one hundred twenty-five (\$125.00) per hour, or
2. Credits received in favor of the COUNTY by CONTRACTOR for unused hours allocated to specific projects either already underway or future projects under separate agreement(s), or
3. Credits received in favor of the COUNTY by CONTRACTOR as may be identified by CONTRACTOR and agreed upon by COUNTY.

C. In the event the stated Hours Pool is not exhausted by COUNTY by the end of year ten of this Agreement, CONTRACTOR agrees to reimburse at a rate of \$125 per hour to the COUNTY for all unused hours that have been pre-paid through the Hours Pool within thirty (30) days as of the effective date of termination of the Agreement. The parties agree that should this Agreement be terminated prior to the end of period ten, maximum reimbursement to COUNTY by CONTRACTOR shall be calculated as: $((\text{Current Contract Period} - 1) \times 350) - \text{hours used to date}$.

EXHIBIT C
STATEMENT OF WORK (SOW)

The commitment for the completion and go-live of the overall EHR project shall be determined by both parties. CONTRACTOR shall not be liable for any project delay(s) unless such delay(s) is (are) due to CONTRACTOR's fault. COUNTY shall provide written confirmation to CONTRACTOR of go-live start date two (2) weeks in advance of agreed upon date. Should COUNTY change go-live date within two (2) weeks preceding start date, COUNTY shall be solely responsible for all non-refundable costs incurred by CONTRACTOR related to go-live activities.

The EHR system is necessary to allow COUNTY to provide the mandated "community standard" health care to the inmates in the Riverside County Jail facilities, the juveniles in the Juvenile Hall facilities and the inmates in Riverside County Regional Medication Center Detention Care Unit.

Development work shall be performed on a test non-production domain, and at successful completion, CONTRACTOR will move the completed work from the non-production (Prod) domain to the Production domain within six months from the completion of COUNTY customization and support the successful go-live on the same date.

The EHR System shall be a fully integrated EHR running on Microsoft Windows Servers or better over the COUNTY network. The application shall run on IBM and VDI/VM Ware connecting to the COUNTY wide area network.

A. OVERVIEW OF MODULES

The major modules are:

- i. Demographics and Registration
- ii. Medical Services
- iii. Scheduling and Tracking
- iv. Pharmacy and Drugs
- v. Dental
- vi. Correctional Mental Health
- vii. Juvenile Health
- viii. Clerical
- ix. Imaging and Document Management
- x. Interfacing Management
- xi. Systems Administration
- xii. Digital Radiographic Module

xiii. Pulmonary Disease Services Module

The EHR system shall be a client/server application that is modular in nature as outlined below:

1. Demographics and Registration Module

Information needed to properly identify and track an inmate will be the responsibility of the Demographic and Registration Module. This module will be where information such as Name, Booking Number, Riverside County Number (RCN) identifier and other demographic information reside. This module will contain past medical records and past bookings that are linked to the inmate or juvenile. Here also will be identifiers which shall allow information about the inmate or juvenile to be shared with other programs including but not limited to the Sheriff's Data System (JIMSS-), the probation system (JAMS) the Riverside Regional County Medical Center pharmacy program (CIPS), the Forensic Mental Health Program (ELMR) and the Riverside County Regional Medical Center in patient system on the Detention Care Unit. This module will also contain a mechanism for restricting the unauthorized release of information and auditing of accessed files; maintaining the confidentiality of all patients is paramount in this environment.

2. Medical Services Module

Information on all medical services provided to the inmate will be entered and edited in this module. This module will encompass such areas as physician orders, chart notes, nursing procedures, etc.

3. Scheduling and Tracking Module

The Scheduling and Tracking module will handle the scheduling and tracking of clinical appointments and medical encounters, both inside and outside the facility. Here also will be where alerts and flags are handled.

4. Pharmacy and Drug Module

All of the medications prescribed to inmates will be handled through the Pharmacy and Drug module. Drug to drug interaction, warnings and patient information about medications, will be generated here. The module shall have the capability to exchange data with existing Correctional Institutional Pharmacy System (CIPS).

5. Dental Module