

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

906



**FROM:** Riverside County Regional Medical Center

**SUBMITTAL DATE:**  
January 8, 2014

**SUBJECT:** Extend the Professional Service Agreement with University Healthsystem Consortium (UHC) [All District; \$142,000]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Ratify and authorize the Chairman to execute the attached Amendment to the Professional Contract Agreement with University Healthsystem Consortium (UHC), without securing competitive bids, in accordance with Ordinance 459.4 for a term of three consecutive years, effective January 1, 2014, for an annual aggregate amount not to exceed \$142,000 annually; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, to sign amendments that do not change the substantive terms of the agreement, and to allow the Purchasing Agent to increase the compensation amount not more than ten percent of the annual amount.

**BACKGROUND:**

Summary

Riverside County Regional Medical Center (RCRMC) requires a contractor to provide data reporting in accordance with the standards of Joint Commission to demonstrate analysis of performance for quality improvement.

*Lowell Johnson*  
Lowell Johnson  
Interim Hospital CEO

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 142,000	\$ 426,000	\$ 142,000	Consent <input checked="" type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

**SOURCE OF FUNDS:** Hospital Enterprise Fund 100%  
Budget Adjustment: No  
For Fiscal Year: FY2013/2014

**C.E.O. RECOMMENDATION:** APPROVE

BY: *Debra Cournoyer*  
Debra Cournoyer

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the above matter is approved as recommended with direction to RCRMC to include Huron's review and approval on all expenditures.

Ayes: Jeffries, Stone, Benoit and Ashley  
Nays: None  
Absent: Tavaglione  
Date: April 8, 2014  
xc: RCRMC

Kecja Harper-Ihem  
Clerk of the Board  
By: *[Signature]*  
Deputy

Prev. Agn. Ref.: 09/30/08; 3.67, District: ALL Agenda Number:

3-24

FORM APPROVED COUNTY COUNSEL DATE 3/24/14  
BY: NEAL R. KIPNIS  
Departmental Concurrence  
Purchasing: Mark Seiler, Assistant Director

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

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

**FORM 11: Extend the Professional Service Agreement with University Healthsystem Consortium (UHC) [All District; \$142,000]**

**DATE:** January 8, 2014

**PAGE:** Page 2 of 2

**Previous Agenda Reference:**

12/22/09; 3.54, 01/10/12; 3.42

**BACKGROUND:**

**Summary (continued)**

In addition to meeting the hospital requirements national core measure reporting to Joint Commission and Centers for Medicare and Medicaid Services (CMS), RCRMC is able to utilize the benchmarks which provide the hospital with the tools necessary to measure the care delivered and set goals and standards to improve patient safety and quality of care. The particular service provided by UHC is unique as there is no alternative organization that can provides these same services.

**Impact on Citizens and Businesses**

This service impacts the patients residing in Riverside County receiving care from Riverside County Regional Medical Center.

**Contract History and Price Reasonableness**

On September 30, 2008; Agenda Item #3.67, the Board approved the agreement between UHC and RCRMC. The agreement allowed RCRMC access to UHC materials and participation in the Performance Accelerator Suite (PAS) program. The clinical data base provided by the UHC agreement provides access to comparative data on patient care and outcomes with academic medical centers nationwide. The National Association of Public Hospitals (NAPH) is a strategic partner with UHC and over fifty of the member hospitals are NAPH and UHC members. Because most of these academic centers and other teaching hospitals subscribe to the UHC Clinical Data Products, it affords RCRMC the most relevant and appropriate pool of benchmark hospitals.

This extension amendment is to secure the annual subscription fee for the next three consecutive years to continue data reporting services in accordance with the standards of Joint Commission. The annual subscription fee has increased by ten percent above from the previous fiscal year. Therefore, RCRMC requests the Boards approval of the recommended motions.

**SIXTH AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT**

**WITH**

**UNIVERSITY HEALTHSYSTEM CONSORTIUM**

(Performance Accelerator Suite Program  
Participant Enrollment & License Agreement)

That certain Agreement between Riverside County Regional Medical Center (COUNTY) and University HealthSystem Consortium, (CONTRACTOR), initially approved by the Board of Supervisors on September 30, 2008, Agenda Item Number 3.67; first amendment approved December 22, 2009, Agenda Item Number 3.54, second amendment approved December 9, 2010, third amendment approved March 2, 2011, fourth amendment approved January 10, 2012, Agenda Item Number 3.42, and fifth amendment approved December 21, 2012, is hereby amended as follows:

1. Amend the language of Section 5. **Term and Termination of License Agreement** to include the following:

“This Amendment extends the term of the Agreement from January 1, 2014 through December 31, 2014, with the option to renew yearly, renewable in one year increments by written amendment, unless terminated as otherwise provided herein.”

2. Amend the language of Section 6. **Annual Subscription Fees**, to include the following:

“Maximum compensation payable for annual subscription fees by COUNTY shall not exceed one hundred forty-two thousand dollars (\$142,000) annually.”

3. Amend to include the attached Business Associate Agreement.

4. All other terms and conditions of this Agreement are to remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Amendment.

CONTRACTOR

**University HealthSystem Consortium**

By: Emmit Goldberg

EMMIT GOLDBERG

Type or Print Name

VP, ENTERPRISE RISK MANAGEMENT  
AND CHIEF PRIVACY OFFICER

Type or Print Title

Date: 3-14-14

COUNTY OF RIVERSIDE

By: Jeff Stone

JEFF STONE

Type or Print Name

CHAIRMAN, BOARD OF SUPERVISORS

Type or Print Title

APR 08 2014

Date: \_\_\_\_\_

FORM APPROVED COUNTY COUNSEL

BY: Neal R. Kipnis 5/24/14  
NEAL R. KIPNIS DATE

APR 08 2014 3-24

ATTEST:  
KECIA HARPER-IHEM, Clerk  
BY: [Signature]  
DEPUTY

HIPAA Business Associate Agreement

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This HIPAA Business Associate Agreement (the "Addendum") supplements, and is made part of any and all agreements and arrangements now or hereafter entered into (the "Underlying Agreement") between the County of Riverside ("County") and University HealthSystem Consortium ("Contractor") and shall be effective as of the date the Underlying Agreement is approved by both Parties (the "Effective Date"). It supersedes any existing Business Associate Agreements between the parties.

RECITALS

WHEREAS, County and Contractor entered into the Underlying Agreement pursuant to which the Contractor provides services to County, and in conjunction with the provision of such services certain protected health information ("PHI") and/or certain electronic protected health information ("ePHI") may be created by or made available to Contractor for the purposes of carrying out its obligations under the Underlying Agreement; and,

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Public Law 104-191 enacted August 21, 1996, and the Health Information Technology for Economic and Clinical Health Act ("HITECH") of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 enacted February 17, 2009, and the laws and regulations promulgated subsequent thereto, as may be amended from time to time, are applicable to the protection of any use or disclosure of PHI and/or ePHI pursuant to the Underlying Agreement; and,

WHEREAS, County is a covered entity, as defined in the Privacy Rule; and,

WHEREAS, to the extent County discloses PHI and/or ePHI to Contractor or Contractor creates, receives, maintains, transmits, or has access to PHI and/or ePHI of County, Contractor is a business associate, as defined in the Privacy Rule; and,

WHEREAS, pursuant to 42 USC §17931 and §17934, certain provisions of the Security Rule and Privacy Rule apply to a business associate of a covered entity in the same manner that they apply to the covered entity, the additional security and privacy requirements of HITECH are applicable to business associates and must be incorporated into the business associate agreement, and a business associate is liable for civil and criminal penalties for failure to comply with these security and/or privacy provisions; and,

WHEREAS, the parties mutually agree that any use or disclosure of PHI and/or ePHI must be in compliance with the Privacy Rule, Security Rule, HIPAA, HITECH and any other applicable law; and,

WHEREAS, the parties intend to enter into this Addendum to address the requirements and obligations set forth in the Privacy Rule, Security Rule, HITECH and HIPAA as they apply to Contractor as a business associate of County, including the establishment of permitted and required uses and disclosures of PHI and/or ePHI created or received by Contractor during the course of performing functions, services and activities on behalf of County, and appropriate limitations and conditions on such uses and disclosures;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1 1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning  
2 as those terms in HITECH, HIPAA, Security Rule and/or Privacy Rule, as may be amended from  
3 time to time.

4 A. "Breach" when used in connection with PHI means the acquisition, access, use or disclosure of  
5 PHI in a manner not permitted under subpart E of the Privacy Rule which compromises the  
6 security or privacy of the PHI, and shall have the meaning given such term in 45 CFR §164.402.

7 (1) Except as provided below in Paragraph (2) of this definition, acquisition, access, use, or  
8 disclosure of PHI in a manner not permitted by subpart E of the Privacy Rule is presumed to  
9 be a breach unless Contractor demonstrates that there is a low probability that the PHI has  
10 been compromised based on a risk assessment of at least the following four factors:

- 11
- 12 (a) The nature and extent of the PHI involved, including the types of identifiers and the  
13 likelihood of re-identification;
  - 14 (b) The unauthorized person who used the PHI or to whom the disclosure was made;
  - 15 (c) Whether the PHI was actually acquired or viewed; and
  - 16 (d) The extent to which the risk to the PHI has been mitigated.
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20 (2) Breach excludes:

- 21 (a) Any unintentional acquisition, access or use of PHI by a workforce member or person  
22 acting under the authority of a covered entity or business associate, if such acquisition,  
23 access or use was made in good faith and within the scope of authority and does not  
24 result in further use or disclosure in a manner not permitted under subpart E of the  
25 Privacy Rule.
- 26 (b) Any inadvertent disclosure by a person who is authorized to access PHI at a covered  
27 entity or business associate to another person authorized to access PHI at the same  
28 covered entity, business associate, or organized health care arrangement in which  
29 County participates, and the information received as a result of such disclosure is not  
30 further used or disclosed in a manner not permitted by subpart E of the Privacy Rule.
- 31 (c) A disclosure of PHI where a covered entity or business associate has a good faith belief  
32 that an unauthorized person to whom the disclosure was made would not reasonably  
33 have been able to retain such information.

34 B. "Business associate" has the meaning given such term in 45 CFR §164.501, including but not  
35 limited to a subcontractor that creates, receives, maintains, transmits or accesses PHI on behalf  
36 of the business associate.

37 C. "Data aggregation" has the meaning given such term in 45 CFR §164.501.

38 D. "Designated record set" as defined in 45 CFR §164.501 means a group of records maintained by  
39 or for a covered entity that may include: the medical records and billing records about  
40 individuals maintained by or for a covered health care provider; the enrollment, payment, claims  
41 adjudication, and case or medical management record systems maintained by or for a health

1 plan; or, used, in whole or in part, by or for the covered entity to make decisions about  
2 individuals.

- 3 E. "Electronic protected health information" ("ePHI") as defined in 45 CFR §160.103 means  
4 protected health information transmitted by or maintained in electronic media.
- 5 F. "Electronic health record" means an electronic record of health-related information on an  
6 individual that is created, gathered, managed, and consulted by authorized health care clinicians  
7 and staff, and shall have the meaning given such term in 42 USC §17921(5).
- 8 G. "Health care operations" has the meaning given such term in 45 CFR §164.501.
- 9 H. "Individual" as defined in 45 CFR §160.103 means the person who is the subject of protected  
10 health information.
- 11 I. "Limited Data Set" has the meaning provided in 45 C.F.R. 164.514
- 12 J. "Person" as defined in 45 CFR §160.103 means a natural person, trust or estate, partnership,  
13 corporation, professional association or corporation, or other entity, public or private.
- 14 K. "Privacy Rule" means the HIPAA regulations codified at 45 CFR Parts 160 and 164, Subparts A  
15 and E.
- 16 L. "Protected health information" ("PHI") has the meaning given such term in 45 CFR §160.103,  
17 which includes ePHI.
- 18 M. "Required by law" has the meaning given such term in 45 CFR §164.103.
- 19 N. "Secretary" means the Secretary of the U.S. Department of Health and Human Services  
20 ("HHS").
- 21 O. "Security incident" as defined in 45 CFR §164.304 means the attempted or successful  
22 unauthorized access, use, disclosure, modification, or destruction of information or interference  
23 with system operations in an information system.
- 24 P. "Security Rule" means the HIPAA Regulations codified at 45 CFR Parts 160 and 164, Subparts  
25 A and C.
- 26 Q. "Subcontractor" as defined in 45 CFR §160.103 means a person to whom a business associate  
27 delegates a function, activity, or service, other than in the capacity of a member of the workforce  
28 of such business associate.
- 29 R. "Unsecured protected health information" and "unsecured PHI" as defined in 45 CFR §164.402  
30 means PHI not rendered unusable, unreadable, or indecipherable to unauthorized persons  
31 through use of a technology or methodology specified by the Secretary in the guidance issued  
32 under 42 USC §17932(h)(2).

33 **2. Scope of Use and Disclosure by Contractor of County's PHI and/or ePHI.**

- 34 A. Except as otherwise provided in this Addendum, Contractor may use, disclose, or access PHI  
35 and/or ePHI as necessary to perform any and all obligations of Contractor under the Underlying

1 Agreement or to perform functions, activities or services for, or on behalf of, County as specified  
2 in this Addendum, if such use or disclosure does not violate HIPAA, HITECH, the Privacy Rule  
3 and/or Security Rule.

4 B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or  
5 authorized by this Addendum or required by law, in accordance with 45 CFR §164.504(e)(2),  
6 Contractor may:

7 (1) Use PHI and/or ePHI if necessary for Contractor's proper management and administration  
8 and to carry out its legal responsibilities; and,

9 (2) Disclose PHI and/or ePHI for the purpose of Contractor's proper management and  
10 administration or to carry out its legal responsibilities, only if:

11 (a) The disclosure is required by law; or,

12 (b) Contractor obtains reasonable assurances, in writing, from the person to whom  
13 Contractor will disclose such PHI and/or ePHI that the person will:

14 (i) Hold such PHI and/or ePHI in confidence and use or further disclose it only for the  
15 purpose for which Contractor disclosed it to the person, or as required by law; and,

16 (ii) Notify Contractor of any instances of which it becomes aware in which the  
17 confidentiality of the information has been breached; and

18 (3) Use PHI to provide data aggregation services relating to the health care operations of County  
19 and other data base participants pursuant to the Underlying Agreement; and,

20 (4) If authorized by Covered Entity use and disclose PHI for , (ii) patient safety activities listed  
21 at 42 CFR 3.20, and (ii) the creation and transmission of Limited Data Sets (e.g. to The  
22 Joint Commission if Covered Entity participates in UHC's Core Measures program), and,

23 (5) De-identify all PHI and/or ePHI of County received by Contractor under this Addendum  
24 provided that the de-identification conforms to the requirements of the Privacy Rule and/or  
25 Security Rule and does not preclude timely payment and/or claims processing and receipt.

26 C. Notwithstanding the foregoing, in any instance where applicable state and/or federal laws and/or  
27 regulations are more stringent in their requirements than the provisions of HIPAA, including,  
28 but not limited to, prohibiting disclosure of mental health and/or substance abuse records, the  
29 applicable state and/or federal laws and/or regulations shall control the disclosure of records.

30 3. **Prohibited Uses and Disclosures.**

31 A. Contractor may neither use, disclose, nor access PHI and/or ePHI in a manner not authorized by  
32 the Underlying Agreement or this Addendum without patient authorization or de-identification  
33 of the PHI and/or ePHI and as authorized in writing from County.

34 B. Contractor may neither use, disclose, nor access PHI and/or ePHI it receives from County or  
35 from another business associate of County, except as permitted or required by this Addendum, or  
36 as required by law.

1 C. Except with respect to data aggregation and internal management and administration of UHC as  
2 provided above, Contractor agrees not to make any disclosure of PHI and/or ePHI that County  
3 would be prohibited from making.

4 D. Contractor shall not use or disclose PHI for any purpose prohibited by the Privacy Rule, Security  
5 Rule, HIPAA and/or HITECH, including, but not limited to 42 USC §17935 and §17936.  
6 Contractor agrees:

7 (1) Not to use or disclose PHI for fundraising , unless pursuant to the Underlying Agreement and  
8 only if permitted by and in compliance with the requirements of 45 CFR §164.514(f) or 45  
9 CFR §164.508;

10 (2) Not to use or disclose PHI for marketing, as defined in 45 CFR §164.501, unless pursuant to  
11 the Underlying Agreement and only if permitted by and in compliance with the requirements  
12 of 45 CFR §164.508(a)(3);

13 (3) Not to disclose PHI, except as otherwise required by law, to a health plan for purposes of  
14 carrying out payment or health care operations, if the individual has requested this restriction  
15 pursuant to 42 USC §17935(a) and 45 CFR §164.522, and has paid out of pocket in full for  
16 the health care item or service to which the PHI solely relates; and,

17 (4) Not to receive, directly or indirectly, remuneration in exchange for PHI, or engage in any act  
18 that would constitute a sale of PHI, as defined in 45 CFR §164.502(a)(5)(ii), unless permitted  
19 by the Underlying Agreement and in compliance with the requirements of a valid  
20 authorization under 45 CFR §164.508(a)(4). This prohibition shall not apply to payment by  
21 County to Contractor for services provided pursuant to the Underlying Agreement.

22 4. **Obligations of County.**

23 A. County agrees to make its best efforts to notify Contractor promptly in writing of any restrictions  
24 on the use or disclosure of PHI and/or ePHI agreed to by County that may affect Contractor's  
25 ability to perform its obligations under the Underlying Agreement, or this Addendum.

26 B. County agrees to make its best efforts to promptly notify Contractor in writing of any changes in,  
27 or revocation of, permission by any individual to use or disclose PHI and/or ePHI, if such  
28 changes or revocation may affect Contractor's ability to perform its obligations under the  
29 Underlying Agreement, or this Addendum.

30 C. County agrees to make its best efforts to promptly notify Contractor in writing of any known  
31 limitation(s) in its notice of privacy practices to the extent that such limitation may affect  
32 Contractor's use or disclosure of PHI and/or ePHI.

33 D. County agrees not to request Contractor to use or disclose PHI and/or ePHI in any manner that  
34 would not be permissible under HITECH, HIPAA, the Privacy Rule, and/or Security Rule.

35 E. County agrees to obtain any authorizations necessary for the use or disclosure of PHI and/or  
36 ePHI, so that Contractor can perform its obligations under this Addendum and/or Underlying  
37 Agreement.



- 1 5. **Obligations of Contractor.** In connection with the use or disclosure of PHI and/or ePHI,  
2 Contractor agrees to:
- 3 A. Use or disclose PHI only if such use or disclosure complies with each applicable requirement of  
4 45 CFR §164.504(e). Contractor shall also comply with the additional privacy requirements that  
5 are applicable to covered entities in HITECH, as may be amended from time to time.
- 6 B. Not use or further disclose PHI and/or ePHI other than as permitted or required by this  
7 Addendum or as required by law. Contractor shall promptly notify County if Contractor is  
8 required by law to disclose PHI and/or ePHI.
- 9 C. Use appropriate safeguards and comply, where applicable, with the Security Rule with respect to  
10 ePHI, to prevent use or disclosure of PHI and/or ePHI other than as provided for by this  
11 Addendum.
- 12 D. Mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or  
13 disclosure of PHI and/or ePHI by Contractor in violation of this Addendum.
- 14 E. Report to County any use or disclosure of PHI and/or ePHI not provided for by this Addendum  
15 or otherwise in violation of HITECH, HIPAA, the Privacy Rule, and/or Security Rule of which  
16 Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR  
17 §164.410.
- 18 F. In accordance with 45 CFR §164.502(e)(1)(ii), require that any subcontractors that create,  
19 receive, maintain, transmit or access PHI on behalf of the Contractor agree through contract to  
20 the same restrictions and conditions that apply to Contractor with respect to such PHI and/or  
21 ePHI, including the restrictions and conditions pursuant to this Addendum.
- 22 G. Make available to County or the Secretary, in the time and manner designated by County or  
23 Secretary, Contractor's internal practices, books and records relating to the use, disclosure and  
24 privacy protection of PHI received from County, or created or received by Contractor on behalf  
25 of County, for purposes of the Secretary determining, investigating or auditing Contractor's  
26 and/or County's compliance with the Privacy Rule.
- 27 H. Request, use or disclose only the minimum amount of PHI necessary to accomplish the intended  
28 purpose of the request, use or disclosure in accordance with 42 USC §17935(b) and 45 CFR  
29 §164.502(b)(1).
- 30 I. Comply with requirements of satisfactory assurances under 45 CFR §164.512 relating to notice  
31 or qualified protective order in response to a third party's subpoena, discovery request, or other  
32 lawful process for the disclosure of PHI, which Contractor shall promptly notify County upon  
33 Contractor's receipt of such request from a third party.
- 34 J. Not require an individual to provide patient authorization for use or disclosure of PHI as a  
35 condition for treatment, payment, enrollment in any health plan (including the health plan  
36 administered by County), or eligibility of benefits, unless otherwise excepted under 45 CFR  
37 §164.508(b)(4) and authorized in writing by County.
- 38 K. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use,  
39 disclosure, or access of PHI and/or ePHI.

- 1 L. Obtain and maintain knowledge of applicable laws and regulations related to HIPAA and  
2 HITECH, as may be amended from time to time.
- 3 M. Comply with the requirements of the Privacy Rule that apply to the County to the extent  
4 Contractor is to carry out County's obligations under the Privacy Rule.
- 5 N. Take reasonable steps to cure or end any pattern of activity or practice of its subcontractor of  
6 which Contractor becomes aware that constitute a material breach or violation of the  
7 subcontractor's obligations under the business associate contract with Contractor, and if such  
8 steps are unsuccessful, Contractor agrees to terminate its contract with the subcontractor if  
9 feasible.

10 **6. Access to PHI, Amendment and Disclosure Accounting.** Contractor agrees to:

11 **A. Access to PHI, including ePHI.** Provide access to PHI, including ePHI if maintained  
12 electronically, in a designated record set to County or an individual as directed by County, within  
13 five (5) days of request from County, to satisfy the requirements of 45 CFR §164.524.

14 **B. Amendment of PHI.** Make PHI available for amendment and incorporate amendments to PHI  
15 in a designated record set County directs or agrees to at the request of an individual, within  
16 fifteen (15) days of receiving a written request from County, in accordance with 45 CFR  
17 §164.526.

18 **C. Accounting of disclosures of PHI and electronic health record.** Assist County to fulfill its  
19 obligations to provide accounting of disclosures of PHI under 45 CFR §164.528 and, where  
20 applicable, electronic health records under 42 USC §17935(c) if Contractor uses or maintains  
21 electronic health records. Contractor shall:

22 (1) Document such disclosures of PHI and/or electronic health records, and information related  
23 to such disclosures, as would be required for County to respond to a request by an individual  
24 for an accounting of disclosures of PHI and/or electronic health record in accordance with 45  
25 CFR §164.528.

26 (2) Within fifteen (15) days of receiving a written request from County, provide to County or  
27 any individual as directed by County information collected in accordance with this section to  
28 permit County to respond to a request by an individual for an accounting of disclosures of  
29 PHI and/or electronic health record.

30 (3) Make available for County information required by this Section 6.C for six (6) years  
31 preceding the individual's request for accounting of disclosures of PHI, and for three (3)  
32 years preceding the individual's request for accounting of disclosures of electronic health  
33 record.

34 **7. Security of ePHI.** In the event County discloses ePHI to Contractor or Contractor needs to create,  
35 receive, maintain, transmit or have access to County ePHI, in accordance with 42 USC §17931 and  
36 45 CFR §164.314(a)(2)(i), and §164.306, Contractor shall:

37 **A.** Comply with the applicable requirements of the Security Rule, and implement administrative,  
38 physical, and technical safeguards that reasonably and appropriately protect the confidentiality,  
39 integrity, and availability of ePHI that Contractor creates, receives, maintains, or transmits on  
40 behalf of County in accordance with 45 CFR §164.308, §164.310, and §164.312;

- 1 B. Comply with each of the requirements of 45 CFR §164.316 relating to the implementation of  
2 policies, procedures and documentation requirements with respect to ePHI;
- 3 C. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;
- 4 D. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or  
5 required under the Privacy Rule;
- 6 E. Ensure compliance with the Security Rule by Contractor's workforce;
- 7 F. In accordance with 45 CFR §164.308(b)(2), require that any subcontractors that create, receive,  
8 maintain, transmit, or access ePHI on behalf of Contractor agree through contract to the same  
9 restrictions and requirements contained in this Addendum and comply with the applicable  
10 requirements of the Security Rule;
- 11 G. Report to County any security incident of which Contractor becomes aware, including breaches  
12 of unsecured PHI as required by 45 CFR §164.410, provided that pings and other broadcast  
13 attacks on Contractor's firewall, port scans, unsuccessful log-on attempts, denial of service  
14 attacks and any combination of the above shall not be considered a security incident, so long as  
15 no such incident results in the defeat or circumvention of any security control, or in the  
16 unauthorized access, use or disclosure of PHI provided by County; and,
- 17 H. Comply with any additional security requirements that are applicable to covered entities in Title  
18 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time,  
19 including but not limited to HITECH.
- 20 8. **Breach of Unsecured PHI.** In the case of breach of unsecured PHI, Contractor shall comply with  
21 the applicable provisions of 42 USC §17932 and 45 CFR Part 164, Subpart D, including but not  
22 limited to 45 CFR §164.410.
- 23 A. **Discovery and notification.** Following the discovery of a breach of unsecured PHI, Contractor  
24 shall notify County in writing of such breach without unreasonable delay and in no case later  
25 than 60 calendar days after discovery of a breach, except as provided in 45 CFR §164.412.
- 26 (1) **Breaches treated as discovered.** A breach is treated as discovered by Contractor as of the  
27 first day on which such breach is known to Contractor or, by exercising reasonable diligence,  
28 would have been known to Contractor, which includes any person, other than the person  
29 committing the breach, who is an employee, officer, or other agent of Contractor (determined  
30 in accordance with the federal common law of agency).
- 31 (2) **Content of notification.** The written notification to County relating to breach of unsecured  
32 PHI shall include, to the extent possible, the following information if known (or can be  
33 reasonably obtained) by Contractor:
- 34 (a) The identification of each individual whose unsecured PHI has been, or is reasonably  
35 believed by Contractor to have been accessed, acquired, used or disclosed during the  
36 breach;
- 37 (b) A brief description of what happened, including the date of the breach and the date of the  
38 discovery of the breach, if known;

1 (c) A description of the types of unsecured PHI involved in the breach, such as whether full  
2 name, social security number, date of birth, home address, account number, diagnosis,  
3 disability code, or other types of information were involved;

4 (d) Any steps individuals should take to protect themselves from potential harm resulting  
5 from the breach;

6 (e) A brief description of what Contractor is doing to investigate the breach, to mitigate harm  
7 to individuals, and to protect against any further breaches; and,

8 **B. Cooperation.** With respect to any breach of unsecured PHI reported by Contractor, Contractor  
9 shall cooperate with County and shall provide County with any information requested by County  
10 to enable County to fulfill in a timely manner its own reporting and notification obligations,  
11 including but not limited to providing notice to individuals, prominent media outlets and the  
12 Secretary in accordance with 42 USC §17932 and 45 CFR §164.404, §164.406 and §164.408.

13 **C. Breach Log.** Contractor provides notice to the County at the time of each breach, if any, and  
14 Contractor has no legal obligation to provide notice to the Secretary of breaches in the form of a  
15 breach log with respect to breaches of less than 500 persons, at the end of the calendar year.

16 **D. Delay of notification authorized by law enforcement.** If Contractor delays notification of  
17 breach of unsecured PHI pursuant to a law enforcement official's statement that required  
18 notification, notice or posting would impede a criminal investigation or cause damage to national  
19 security, Contractor shall maintain documentation sufficient to demonstrate its compliance with  
20 the requirements of 45 CFR §164.412.

21 **E. Payment of costs.** With respect to any breach of unsecured PHI caused solely by the  
22 Contractor's failure to comply with one or more of its obligations under this Addendum and/or  
23 the provisions of HITECH, HIPAA, the Privacy Rule or the Security Rule, Contractor agrees to  
24 pay any and all costs associated with providing all legally required notifications to individuals,  
25 media outlets, and the Secretary. This provision shall not be construed to limit or diminish  
26 Contractor's obligations to indemnify, defend and hold harmless County under Section 9 of this  
27 Addendum.

28 **F. Documentation.** Pursuant to 45 CFR §164.414(b), in the event Contractor's use or disclosure of  
29 PHI and/or ePHI violates the Privacy Rule, Contractor shall maintain documentation sufficient to  
30 demonstrate that all notifications were made by Contractor as required by 45 CFR Part 164,  
31 Subpart D, or that such use or disclosure did not constitute a breach, including Contractor's  
32 completed risk assessment and investigation documentation.

33 **G. Additional State Reporting Requirements.** The parties agree that this Section 8.G applies only  
34 if and/or when County, in its capacity as a licensed clinic, health facility, home health agency, or  
35 hospice, is required to report unlawful or unauthorized access, use, or disclosure of medical  
36 information under the more stringent requirements of California Health & Safety Code §1280.15.  
37 For purposes of this Section 8.G, "unauthorized" has the meaning given such term in California  
38 Health & Safety Code §1280.15(j)(2).

39 (1) Contractor agrees to assist County to fulfill its reporting obligations to affected patients and  
40 to the California Department of Public Health ("CDPH") in a timely manner under the

1 California Health & Safety Code §1280.15 by providing the information noted in 8.A(2)  
2 above.

3 (2) Contractor agrees to report to County any unlawful or unauthorized access, use, or disclosure  
4 of patient's medical information without unreasonable delay and no later than three (3)  
5 business days after Contractor detects such incident. Contractor further agrees such report  
6 shall be made in writing, and shall include substantially the same types of information listed  
7 above in Section 8.A.2 (Content of Notification) as applicable to the unlawful or  
8 unauthorized access, use, or disclosure as defined above in this section, understanding and  
9 acknowledging that the term "breach" as used in Section 8.A.2 does not apply to California  
10 Health & Safety Code §1280.15.

11 9. **Hold Harmless/Indemnification.**

12 A. Each party agrees to be responsible for its own acts of omission or commission in connection  
13 with and arising out of its obligations under this Addendum, and under HIPAA, HITECH, the  
14 Privacy Rule and/or Security Rules., including but not limited to property damage, bodily injury,  
15 or death, arising from this agreement or a breach of HIPAA by the indemnifying party.

16 B. The specified insurance limits required in the Underlying Agreement of this Addendum shall in  
17 no way limit or circumscribe Contractor's obligations to indemnify and hold harmless County  
18 herein from third party claims arising from issues of this Addendum.

19 C. In the event there is conflict between this clause and California Civil Code §2782, this clause  
20 shall be interpreted to comply with Civil Code §2782.

21 10. **Term.** This Addendum shall commence upon the Effective Date and shall terminate when all PHI  
22 and/or ePHI provided by County to Contractor, or created or received by Contractor on behalf of  
23 County, is destroyed or returned to County, or, if it is infeasible to return or destroy PHI and/ePHI,  
24 protections are extended to such information, in accordance with section 11.B of this Addendum.

25 11. **Termination.**

26 A. **Termination for Breach of Contract.** A breach of any provision of this Addendum by either  
27 party shall constitute a material breach of the Underlying Agreement and will provide grounds  
28 for terminating this Addendum and the Underlying Agreement with or without an opportunity to  
29 cure the breach, notwithstanding any provision in the Underlying Agreement to the contrary.  
30 Either party, upon written notice to the other party describing the breach, may take any of the  
31 following actions:

32 (1) Terminate the Underlying Agreement and this Addendum, effective immediately, if the other  
33 party breaches a material provision of this Addendum.

34 (2) Provide the other party with an opportunity to cure the alleged material breach and in the  
35 event the other party fails to cure the breach to the satisfaction of the non-breaching party in  
36 a timely manner, the non-breaching party has the right to immediately terminate the  
37 Underlying Agreement and this Addendum.

38 (3) If termination of the Underlying Agreement is not feasible, the breaching party, upon the  
39 request of the non-breaching party, shall implement, at its own expense, a plan to cure the  
40 breach and report regularly on its compliance with such plan to the non-breaching party.

1       **B. Effect of Termination.**

2           (1) Upon termination of this Addendum, for any reason, Contractor shall return or, if agreed to in  
3           writing by County, destroy all PHI and/or ePHI received from County, or created or received  
4           by the Contractor on behalf of County, and, in the event of destruction, Contractor shall  
5           certify such destruction, in writing, to County. This provision shall apply to all PHI and/or  
6           ePHI which are in the possession of subcontractors or agents of Contractor. Contractor shall  
7           retain no copies of PHI and/or ePHI, except as provided below in paragraph (2) of this  
8           section.

9           (2) In the event that Contractor determines that returning or destroying the PHI and/or ePHI is  
10          not feasible, Contractor shall provide written notification to County of the conditions that  
11          make such return or destruction not feasible. Upon determination by Contractor that return  
12          or destruction of PHI and/or ePHI is not feasible, Contractor shall extend the protections of  
13          this Addendum to such PHI and/or ePHI and limit further uses and disclosures of such PHI  
14          and/or ePHI to those purposes which make the return or destruction not feasible, for so long  
15          as Contractor maintains such PHI and/or ePHI. The parties acknowledge that it is infeasible to  
16          return ePHI from UHC's aggregated databases, and that as to such PHI, the protections noted  
17          in this paragraph apply.

18       **General Provisions.**

19       **C. Retention Period.** Whenever Contractor is required to document or maintain documentation  
20       pursuant to the terms of this Addendum, Contractor shall retain such documentation for 6 years  
21       from the date of its creation or as otherwise prescribed by law, whichever is later.

22       **D. Amendment.** The parties agree to take such action as is necessary to amend this Addendum  
23       from time to time as is necessary for County to comply with HITECH, the Privacy Rule, Security  
24       Rule, and HIPAA generally.

25       **E. Survival.** The obligations of Contractor under Sections 3, 5, 6, 7, 8, 9, 11.B and 12.A of this  
26       Addendum shall survive the termination or expiration of this Addendum.

27       **F. Regulatory and Statutory References.** A reference in this Addendum to a section in HITECH,  
28       HIPAA, the Privacy Rule and/or Security Rule means the section(s) as in effect or as amended.

29       **G. Conflicts.** The provisions of this Addendum shall prevail over any provisions in the Underlying  
30       Agreement that conflict or appear inconsistent with any provision in this Addendum.

31       **H. Interpretation of Addendum.**

32           (1) This Addendum shall be construed to be part of the Underlying Agreement as one document.  
33           The purpose is to supplement the Underlying Agreement to include the requirements of the  
34           Privacy Rule, Security Rule, HIPAA and HITECH.

35           (2) Any ambiguity between this Addendum and the Underlying Agreement shall be resolved to  
36           permit County to comply with the Privacy Rule, Security Rule, HIPAA and HITECH  
37           generally.

38       **I. Notices to County.** All notifications required to be given by Contractor to County pursuant to  
39       the terms of this Addendum shall be made in writing and delivered to the County both by fax and

1 to both of the addresses listed below by either registered or certified mail return receipt requested  
2 or guaranteed overnight mail with tracing capability, or at such other address as County may  
3 hereafter designate. All notices to County provided by Contractor pursuant to this Section shall  
4 be deemed given or made when received by County.

5 County HIPAA Privacy Officer: HIPAA Privacy Manager  
6 County HIPAA Privacy Officer Address: P.O. Box 1569  
7 Riverside, CA 92502  
8 County HIPAA Privacy Officer Fax Number: (951) 955-HIPAA or (951) 955-4472

9 ----- **TO BE COMPLETED BY COUNTY PERSONNEL ONLY** -----

10 County Departmental Officer: \_\_\_\_\_  
11 County Departmental Officer Title: \_\_\_\_\_  
12 County Department Address: \_\_\_\_\_  
13 County Department Fax Number: \_\_\_\_\_  
14

15 **COUNTY:**

16 Riverside County

17  
18 Signature: Jeff Stone

19  
20 Print Name: JEFF STONE

21  
22 Title: CHAIRMAN, BOARD OF SUPERVISORS

23  
24 Dated: APR 08 2014

25  
FORM APPROVED COUNTY COUNSEL  
BY: Neal R. Kipnis DATE

ATTEST:  
KECIA HARPER-IHEM, Clerk  
By: [Signature]  
DEPUTY

**CONTRACTOR:**

University Healthsystem Consortium (UHC)

Signature: Emmet Goldberg

Print Name: EMMET GOLDBERG

Title: UP, ENTERPRISE RISK MANAGEMENT AND  
CHIEF PRIVACY OFFICER

Dated: 3-14-14