

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

920



FROM: Riverside County Regional Medical Center

SUBMITTAL DATE:
August 20, 2015

SUBJECT: Approve the Professional Services Agreement with MCI Communications Services, Inc. dba Verizon Business Services for the Expansion Project effective September 1, 2015 through June 30, 2016 [All Districts; \$391,000; Hospital Enterprise Funds]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and authorize the Chairman to execute the Agreement with MCI Communications Services, Inc. dba Verizon Business Services for the Expansion Project not to exceed \$391,000 effective September 1, 2015 through June 30, 2016, and;
2. Authorize the Assistant CEO – Health System or his designee to sign amendments that do not change the substantive terms of the agreement, and authorize the Assistant CEO – Health System to approve increase(s) to the compensation amount not more than ten percent of the aggregate amount, for unforeseen project requirements based on the availability of fiscal funds for required services and subject to approval by County Counsel.

(continued on next page)

Jennifer Cruikshank

Jennifer Cruikshank,
Hospital Chief Operating Officer
for Zareh Sarrafian

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 391,000	\$ 0	\$ 391,000	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	
SOURCE OF FUNDS: Hospital Enterprise Fund - 40050				Budget Adjustment: No	
				For Fiscal Year: 15/16	

C.E.O. RECOMMENDATION:

APPROVE

BY: *Christopher M. Hans*
County Executive Office Signature Christopher M. Hans

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
Nays: None
Absent: None
Date: September 1, 2015
xc: RCRMC

Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*
Deputy

Prev. Agn. Ref.: 02/10/15; 3-14 | District: ALL | Agenda Number:

CONFIDENTIAL Agrmt. Attached

3-43

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

FORM APPROVED COUNTY COUNSEL
BY: *ANITA C. WILLIS* 8-20-15
DATE

PURCHASING & FLEET SERVICES
Lisa Brandi, Director
Departmental Concurrence

Lisa Brandi

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Approve the Professional Services Agreement with MCI Communications Services, Inc. dba Verizon Business Services for the Expansion Project effective September 1, 2015 through June 30, 2016 [All Districts; \$391,000; Hospital Enterprise Funds]
DATE: August 20, 2015
PAGE: Page 2 of 2

BACKGROUND:

Summary (continued)

The Department of Health and Human Services requires healthcare organizations such as Riverside County Regional Medical Center (RCRMC) and the Community Based Clinics (collectively "County"), to conduct a HIPAA Security Risk Analysis as specified in HIPAA Security Rule 164.308(a)(1). This is a mandatory requirement for healthcare facilities that store or transmit electronic protected health information (ePHI). The HIPAA risk analysis report includes the comprehensive assessment of the controls, processes, and policies used by RCRMC and Community Based Clinics to comply with the HIPAA rules and other laws or regulations. Verizon completed their assessment and has advised County they are ready to proceed in its second phase of the project. The County desires to move forward with the second phase known as the Expansion Project.

Impact on Citizens and Businesses

This service impacts the hospitals business in its efforts to provide continued health care for the patients residing in Riverside County.

Contract History and Price Reasonableness

On February 10, 2015, agenda item number 3-14, the Board of Supervisors approved the professional services agreement with MCI Communications, Inc. dba Verizon Business Services to provide a Comprehensive HIPAA Risk Analysis. Verizon completed their assessment and presented a solution. The Expansion Project Agreement moves in its second phase which consists of a security advisor by providing the necessary support for identified remediation services to ensure County maintains compliance in accordance with HIPAA rules and other laws or regulations. The cost for this expansion project is \$391,000 including all expenses which covers time and materials based on the hours Verizon worked to perform the requirements of the project.



COUNTY RIVERSIDE

PURCHASING AND FLEET SERVICES
LISA BRANDL
DIRECTOR
PURCHASING
SUPPLY
CENTRAL MAIL
PRINTING
FLEET

Date: August 20, 2015
From: Zareh H. Sarrafian, Hospital CEO Department/Agency: RCRMC
To: Board of Supervisors/Purchasing Agent
Via: Purchasing Agent
Subject: Sole Source Procurement; Request for (Verizon Expansion Project)

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. Supplier being requested:** MCI Communications Services, Inc. dba Verizon Business Services
- 2. Supply/Service being requested:** Expansion Project Services as it pertains to HIPAA Security Risk Analysis.
- 3. Alternative suppliers that can or might be able to provide supply/service and extent of market search conducted:** None. On November 26, 2014 County Purchasing released a Request for Quote RFQ ITARC-314 for Comprehensive HIPAA Risk Analysis. MCI Communications, Inc. dba Verizon Business Services was found to be the responsive responsible bidder.
- 4. Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:** Since Verizon was awarded the contract as a result of RFQ ITARC-314, and initially conducted the risk analysis for the hospital, Verizon understands the areas, controls, processes, and policies which Riverside County Regional Medical Center (RCRMC) needs to move forward with implementation.
- 5. Reasons why my department requires these unique features and what benefit will accrue to the county:** The Department of Health and Human Services requires healthcare organizations such as RCRMC and the Community Based Clinics, to conduct a HIPAA Security Risk Analysis as specified in HIPAA Security Rule 164.308(a)(1). This is a mandatory requirement for healthcare facilities that store or transmit electronic protected health information (ePHI). Verizon completed their review and assessment and provided the County with the results. The Expansion Project Agreement moves in its second phase which consists of a security advisor by providing the necessary support for identified remediation services to ensure County maintains compliance in accordance with HIPAA rules and other laws or regulations.

6. **Price Reasonableness including purchase price and any ongoing maintenance or ancillary costs from the supplier:** Total cost of the Expansion Project is \$391,000 including all expenses. The cost covers only time and materials based on the hours worked to perform the requirements of the project.

Grand Total: \$391,000

7. **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.

8. **Period of Performance:** From September 1, 2015 to June 30, 2016

Is this an annually renewable contract: No

Is this a multi-year contract (Fixed term): No

If yes, do you have a 30 day termination clause: Yes

9. **Projected Board of Supervisor Date:** N/A

10. **Department PCS/Buyer Review Initials:** NS

<u>Jennifer L. Cruikshank</u>	<u>JENNIFER L. CRUIKSHANK</u>	<u>8/20/15</u>
Department Head Signature (or designee)	Print Name	Date

Purchasing Department Comments:

<u>Approve</u>	Approve with Condition/s	Disapprove
Not to exceed: \$ <u>391,000.00</u>	One time	Annual Amount through _____
<u>Lise Brandt</u>	<u>8/20/15</u>	<u>16-095</u>
Purchasing Agent	Date	Approval Number (Reference on Purchasing Documents)

PROFESSIONAL SERVICE AGREEMENT

for

EXPANSION PROJECT

between

COUNTY OF RIVERSIDE

and

**VERIZON BUSINESS NETWORK SERVICES, INC., ON BEHALF OF MCI
COMMUNICATIONS SERVICES, INC. DBA VERIZON BUSINESS SERVICES**



SEP 01 2015 343

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This Agreement, made and entered into this ____ day of _____, 2015, by and between Verizon Business Network Services, Inc., on behalf of MCI Communications Services, Inc. dba Verizon Business Services, (herein referred to as "Verizon"), 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 Verizon shall provide all services as outlined and specified in Exhibit A, Statement of Work and Exhibit B, Service Order Form, consisting of 10 pages at the prices stated in Exhibit C, Service Order Details, consisting of 2 pages, and Attachment I, HIPAA Business Associate Attachment to the Agreement, consisting of 12 pages.

1.2 Verizon represents that it has the skills, experience, and knowledge necessary to perform under this Agreement and the COUNTY relies upon this representation. Verizon 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 Verizon affirms this it is fully apprised of all of the work to be performed under this Agreement; and Verizon agrees it can properly perform this work at the prices stated in Exhibit C. Verizon is not to perform services or provide products outside of the Agreement.

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

2. Period of Performance

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continues in effect through June 30, 2016, unless terminated earlier. Verizon shall commence performance upon signature of this Agreement by both parties 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 C. Maximum payments by COUNTY to Verizon shall not exceed three hundred ninety one thousand dollars (\$391,000) including all expenses. The parties agree that Verizon's time and materials price is based on the hours worked performing the requirements stated in this Agreement.

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 C, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

3.2 No price increases will be permitted during the first year of this Agreement (If applicable). All price decreases (for example, if Verizon offers lower prices to another governmental entity) will automatically be extended to the COUNTY. The COUNTY requires written proof satisfactory to COUNTY of cost increases prior to any approved price adjustment. After the first year of the award, a minimum of 30-days advance notice in writing is required to be considered and approved by COUNTY. No retroactive price adjustments will be considered. Any price increases must be stated in a written amendment to this Agreement. The net dollar amount of profit will remain firm during the period of the Agreement. Annual increases shall not exceed the Consumer Price Index- All Consumers, All Items - Greater Los Angeles, Riverside and Orange County areas and be subject to satisfactory performance review by the COUNTY and approved (if needed) for budget funding by the Board of Supervisors.

3.3 Verizon shall be paid only in accordance with an invoice submitted to COUNTY by Verizon, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to Verizon 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
Attn: Accounts Payable
26520 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; quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.

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, and invoices shall be rendered "monthly" in arrears. 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 Verizon in writing; and this Agreement shall be deemed terminated, 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 his designee is 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 Verizon for additional payment related to this Agreement shall be made in writing by Verizon within 30 days of when Verizon has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to Verizon. If the COUNTY decides that the facts provide sufficient justification, County may authorize additional payment to the Verizon pursuant to the claim. Nothing in this section shall excuse Verizon 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 Verizon stating the extent and effective date of termination.

5.2 COUNTY may, upon five (5) days written notice terminate this Agreement for Verizon's default, if Verizon 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.

5.3 After receipt of the notice of termination, Verizon 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.

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

5.5 Verizon'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 Verizon; or in the event of Verizon's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, Verizon shall not be entitled to any further compensation under this Agreement.

5.6 CONTRACTOR is not debarred from the System for Award Management (SAM). If the Agreement is federally or State funded, Verizon 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.

5.7 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**

Verizon agrees that, to the extent it is within Verizon's authority, all materials, reports or products in any form, including electronic, first created by Verizon during the term of this agreement for which Verizon 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 limited to, duplication and/or distribution within the COUNTY or to third parties. Verizon agrees not to release or circulate in whole or in part such materials, reports, or products without prior written authorization of the COUNTY. Notwithstanding the foregoing, COUNTY, and Verizon acknowledge and agree that Verizon will utilize templates and other intellectual property created by Verizon prior to entering into this Agreement. The parties agree that Verizon: (1) will use such templates and other intellectual property as foundational material that is tailored to address Verizon's specific assessment methodology and findings resulting from the work performed hereunder; and (2) retains all rights, title and interest in and to such pre-existing templates and intellectual property (regardless of format), but not to the tailored material and reports containing detailed information about the COUNTY.

7. **Conduct of Contractor**

7.1 Verizon 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 Verizon's performance under this Agreement. Verizon further covenants that no person or subcontractor having any such interest shall be employed or retained by Verizon under this Agreement. Verizon agrees to inform the COUNTY of all Verizon's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

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

7.3 Verizon 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. Verizon shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine Verizon's conformity with the terms of this Agreement. If any services performed or products provided by Verizon are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require Verizon 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 Verizon 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 Verizon any costs incurred by the COUNTY because of the Verizon's failure to perform.

8.2 Verizon 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 Verizon's performance under this Agreement at any time, upon reasonable notice to Verizon.

9. Independent Contractor/Employment Eligibility

9.1 Verizon 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 Verizon (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 Verizon 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 Verizon 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 Verizon 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. Verizon 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. Verizon 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 Verizon shall use Live Scan to screen prospective Covered Individuals prior to hire or engagement. Verizon shall not hire or engage any Ineligible Person to provide services directly relative to this Agreement. Verizon shall screen all current Covered Individuals immediately after execution of this Agreement to ensure that they have not become Ineligible Persons unless Verizon 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. Verizon 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 Verizon 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 Verizon becomes aware that a Covered Individual has become an Ineligible Person, Verizon shall remove such individual from responsibility for, or involvement with, COUNTY business operations related to this Agreement.

9.6 Verizon 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 Verizon 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 Verizon 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. Verizon 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

Verizon 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. Verizon 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

Verizon 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 Verizon; and COUNTY shall in no way be responsible to Verizon for other entities' purchases.

14. Non-Discrimination

Verizon 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

Verizon 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 Verizon's costs related to this Agreement. All such books, documents and records shall be maintained by Verizon for at least five years following termination of this Agreement and be available for audit by the COUNTY. Verizon shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

16. Confidentiality

16.1 Verizon shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. Confidential information stored on or transmitted to/from digital systems shall be encrypted at minimum to meet Federal Information Processing Standard (FIPS) Publication 140-2 while at rest and in transit. The term "digital systems" includes but is not limited to: computing systems, servers, personal computers, laptops, cell

phones/smartphones, tablets, thumb or flash drives, external hard drives and all other devices that can store or transmit digital data. 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 Verizon 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. Verizon shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. Verizon shall promptly transmit to the COUNTY all third party requests for disclosure of such information. Verizon 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 Verizon 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 1 of this agreement.

16.4 All information, data and documents received by Verizon from COUNTY (regardless of format) pursuant to this Agreement shall be maintained in strict confidence by Verizon and not be disclosed to any third party.

16.5 Notwithstanding the confidentiality obligations required herein, Verizon's confidentiality obligations hereunder shall not apply to information which: (a) is already known to Verizon (other than the terms of this agreement); (b) becomes publically available without fault of Verizon; (c) is rightfully obtained by Verizon from a third party without restriction as to disclosure, or such confidential information is approved for release by written authorization of the COUNTY; (d) is developed independently by Verizon without use of the COUNTY's confidential information; or (3) is required to be disclosed by law, provided that prior to making such required disclosure, Verizon shall notify the COUNTY that disclosure is legally required.

16.6 All information, data and documents prepared by Verizon (regardless of format) is being prepared pursuant to and shall be subject to California Evidence Code 1157.

17. **Administration/Contract Liaison**

The COUNTY Hospital Privacy Officer, or designee, shall administer this Agreement on behalf of the COUNTY. The Chief Compliance Officer is to serve as the liaison with Verizon in connection with this Agreement.

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

Riverside County Regional Medical Center
26520 Cactus Street
Moreno Valley, CA 92555
Attn: Chief Compliance Officer

CONTRACTOR

Verizon Business Services
18850 Orange Street
Bloomington, CA 92316
Attn: Stephen Pruneri

Office of the County Counsel
3960 Orange Street, Suite 500
Riverside, CA 92501
Attn: Assistant County Counsel, Anita Willis

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. Verizon 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 Verizon 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 Verizon 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 Verizon has any questions concerning this reporting requirement, please call (916) 657-0529. Verizon 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 Verizon 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 Verizon, 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. Verizon 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.

21.2 With respect to any action or claim subject to indemnification herein by Verizon, Verizon 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 Verizon's indemnification to Indemnitees as set forth herein.

21.3 Verizon's obligation hereunder shall be satisfied when Verizon 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 Verizon's obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

22. Insurance

22.1 Without limiting or diminishing Verizon's obligation to indemnify or hold the COUNTY harmless, Verizon 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 Verizon has employees as defined by the State of California, Verizon 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 Verizon'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 are used in the performance of the obligations under this Agreement, then Verizon 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:

Verizon shall maintain Professional Liability Insurance providing coverage for Verizon'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 Verizon'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 Verizon 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 Verizon 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) Verizon 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, Verizon'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) Verizon shall cause Verizon'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. Verizon 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 Verizon'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 scope 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 Verizon has become inadequate.

6) Verizon 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) Verizon 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 Verizon 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 Verizon receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, Verizon shall promptly refund the disallowed amount to the COUNTY on request of COUNTY.

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

23.5 Verizon 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. Verizon warrants that it has good title to all materials or products used by Verizon 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 Verizon in Verizon's performance under this Agreement, including, if stated in the Agreement, providing Verizon with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 Verizon shall comply with all applicable Federal, State and local laws and regulations. Verizon 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, Verizon shall comply with the more restrictive law or regulation.

23.9 Verizon 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 Verizon 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, including any attachments or exhibits, 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:

County of Riverside on behalf of
Riverside County Regional Medical Center

CONTRACTOR:

Verizon Business Network Services
Inc., on Behalf of MCI Communications
Services, Inc. dba Verizon Business
Services

Signature: Marion Ashley Signature: Anthony Recine

Print Name: Marion Ashley Print Name: Anthony Recine

Title: Chair, Board of Supervisors Title: Senior Vice President and Chief Marketing Officer

Dated: SEP 01 2015 Dated: 8/26/2015

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

FORM APPROVED COUNTY COUNSEL
BY: [Signature] ANITA C. WILLIS DATE: 8/26/15

CONFIDENTIAL

Exhibit A is CONFIDENTIAL and has purposefully not been included here.

SCOPE OF WORK

CONFIDENTIAL

Not for Public Distribution

Full Agreement with Scope of Work only to:

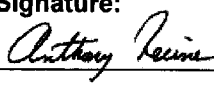
**Clerk of Board
Board of Supervisors
County Counsel
RCRMC**

CONFIDENTIAL

EXHIBIT B

SERVICE ORDER FORM (SOF)

Verizon Business Network Services Inc. on behalf of

MCI Communications Services, Inc. d/b/a Verizon Business Services (Verizon Signatory)	Riverside County Regional Medical Center (Customer Signatory)
Registered Office Address: Verizon Business Services, 6415-6455 Business Center Drive, Highlands Ranch, CO 80130, Attn: Customer Service, Email: notice@verizonbusiness.com	Registered Office Address: Riverside County Regional Medical Center, 26520 Cactus Ave, Moreno Valley, CA 92555.
Verizon Signature: 	Customer Signature: 
Name: Anthony Recine	Name: MARION ASHLEY
Title: SVP	Title: CHAIRMAN, BOARD OF SUPERVISORS
Date: 8/26/2015	Date: SEP 01 2015

ATTEST:
 KECIA HARPER-IHEM Clerk
 By:  DEPUTY

Service Provided by (MCI Communications Services, Inc. d/b/a Verizon Business Services):

Order Information:

Verizon Legal Entity Address	Verizon Business Services, 6415-6455 Business Center Drive, Highlands Ranch, CO 80130, Attn: Customer Service, Email: notice@verizonbusiness.com
Contract ID	
SOF#	
SOW#	2
Service Order Effective Date	Upon Full Execution of SOF
Term	12 months

Service Billed to:

Registered Company Name	Riverside County Regional Medical Center	
VAT/GST/Consumption Tax Number (as applicable)		
Tax exempt: (if yes, valid exemption certificate must be provided for invoiced entity)	No	
CIN/Registration Number (as applicable)		
Bill To Address	26520 Cactus Ave	
Town/City	Moreno Valley	
Province/County/State (as applicable)	CA	
Postal Code	92555	

Country	USA
Billing Language:	English
Corp ID/BAN No. (as applicable):	Existing: No
Billing Contact Name:	Email:
Telephone No:	Fax No:

Contract Information:

Master Agreement – contract ID no	
Professional Services Service Attachment to Master Agreement – Document ID:	

Pricing or promotional benefits in this Service Order Form (“SOF”) may not be available unless it is signed and delivered to Verizon prior to Friday, May 29, 2015.

Purchase Order Details:

Purchase order is not required.

Currency:

Currency	
All charges and amounts indicated herein are expressed and will be billed in the following currency:	USD (\$)

EXHIBIT C**SERVICE ORDER DETAILS****Service Delivered to:**

Site Name	Riverside County Regional Medical Center
Street Address 1	26520 Cactus Ave
Street Address 2	
Town/City	Moreno Valley
Province/County/State (as applicable)	CA
Postal Code	92555
Country	USA
Contact Name: Charmaine Dumont	Email: cdumont@co.riverside.ca.us
Contact Phone: 951-486-6471	Fax No:

Rates and Charges:

Part A: Professional Services on Time and Materials Basis				
Time and Materials – Capped time and material				
If the cap is reached the Expansion Project work will stop. Additional hours can be added via the change request process shown in the Service Attachment.				
Resource	Description	Hourly Rate USD (\$)	Number of Hours	Charges USD (\$)
Senior Consultant(s)	Governance, Risk and Compliance – Security Advisor	215	1440	309,600.00
Principal Consultant	Governance, Risk and Compliance – Security Advisor	245	100	24,500.00
Project Manager	Governance, Risk and Compliance – Security Advisor	185	150	27,750.00
Totals				361,850.00

Invoicing Schedule	
Professional services provided on a time and materials basis:	Monthly in arrears of performance / consumption

Part B: Professional Services Travel and Expenses – Actual

Invoicing Schedule

Subject to compliance with the County's normal and customary policies of business expenses, Verizon is authorized to incur customary and reasonable travel, lodging, and other associated expenses in connection with the performance of the professional services in this Agreement. Verizon may invoice these expenses monthly in arrears; the Customer will reimburse Verizon for those expenses. Notwithstanding the foregoing, travel expenses shall not exceed thirty thousand dollars (\$30,000.00) without prior written approval from Customer.

Part C: Payment Terms

Payment Terms:

Payment terms as indicated in the Master Agreement / PSA.

ATTACHMENT I

**HIPAA Business Associate Agreement
Addendum to Contract
Between the County of Riverside and
Verizon Business Network Services, Inc., on behalf of MCI Communications Services, Inc. dba Verizon
Business Services**

This HIPAA Business Associate Agreement (the "Addendum") supplements, and is made part of the Expansion Project (the "Underlying Agreement") between the County of Riverside ("County") and Verizon Business Network Services, Inc., on behalf of MCI Communications Services, Inc. dba Verizon Business Services ("Contractor") and shall be effective as of the date the Underlying Agreement is approved by both Parties (the "Effective Date").

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. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HITECH, HIPAA, Security Rule and/or Privacy Rule, as may be amended from time to time.
- A. "Breach" when used in connection with PHI means the acquisition, access, use or disclosure of PHI in a manner not permitted under subpart E of the Privacy Rule which compromises the security or privacy of the PHI, and shall have the meaning given such term in 45 CFR §164.402.
- (1) Except as provided below in Paragraph (2) of this definition, acquisition, access, use, or disclosure of PHI in a manner not permitted by subpart E of the Privacy Rule is presumed to be a breach unless Contractor demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following four factors:
- (a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- (b) The unauthorized person who used the PHI or to whom the disclosure was made;
- (c) Whether the PHI was actually acquired or viewed; and
- (d) The extent to which the risk to the PHI has been mitigated.
- (2) Breach excludes:
- (a) Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under subpart E of the Privacy Rule.
- (b) Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or business associate to another person authorized to access PHI at the same covered entity, business associate, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted by subpart E of the Privacy Rule.
- (c) A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
- B. "Business associate" has the meaning given such term in 45 CFR §164.501, including but not limited to a subcontractor that creates, receives, maintains, transmits or accesses PHI on behalf of the business associate.
- C. "Data aggregation" has the meaning given such term in 45 CFR §164.501.
- D. "Designated record set" as defined in 45 CFR §164.501 means a group of records maintained by or for a covered entity that may include: the medical records and billing records about individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or, used, in whole or in part, by or for the covered entity to make decisions about individuals.
- E. "Electronic protected health information" ("ePHI") as defined in 45 CFR §160.103 means protected health information transmitted by or maintained in electronic media.

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

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

- A. Except as otherwise provided in this Addendum, Contractor may use, disclose, or access PHI and/or ePHI as necessary to perform any and all obligations of Contractor under the Underlying Agreement or to perform functions, activities or services for, or on behalf of, County as specified in this Addendum, if such use or disclosure does not violate HIPAA, HITECH, the Privacy Rule and/or Security Rule.
- B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Addendum or required by law, in accordance with 45 CFR §164.504(e)(2), Contractor may:
 - 1) Use PHI and/or ePHI if necessary for Contractor's proper management and administration and to carry out its legal responsibilities; and,
 - 2) Disclose PHI and/or ePHI for the purpose of Contractor's proper management and administration or to carry out its legal responsibilities, only if:
 - a) The disclosure is required by law; or,

- b) Contractor obtains reasonable assurances, in writing, from the person to whom Contractor will disclose such PHI and/or ePHI that the person will:
 - i. Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person, or as required by law; and,
 - ii. Notify Contractor of any instances of which it becomes aware in which the confidentiality of the information has been breached; and,
 - 3) Use PHI to provide data aggregation services relating to the health care operations of County pursuant to the Underlying Agreement or as requested by County; and,
 - 4) De-identify all PHI and/or ePHI of County received by Contractor under this Addendum provided that the de-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.
- C. Notwithstanding the foregoing, in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA, including, but not limited to, prohibiting disclosure of mental health and/or substance abuse records, the applicable state and/or federal laws and/or regulations shall control the disclosure of records.

3. **Prohibited Uses and Disclosures.**

- A. Contractor may neither use, disclose, nor access PHI and/or ePHI in a manner not authorized by the Underlying Agreement or this Addendum without patient authorization or de-identification of the PHI and/or ePHI and as authorized in writing from County.
- B. Contractor may neither use, disclose, nor access PHI and/or ePHI it receives from County or from another business associate of County, except as permitted or required by this Addendum, or as required by law.
- C. Contractor agrees not to make any disclosure of PHI and/or ePHI that County would be prohibited from making.
- D. Contractor shall not use or disclose PHI for any purpose prohibited by the Privacy Rule, Security Rule, HIPAA and/or HITECH, including, but not limited to 42 USC §17935 and §17936. Contractor agrees:
 - 1) Not to use or disclose PHI for fundraising, unless pursuant to the Underlying Agreement and only if permitted by and in compliance with the requirements of 45 CFR §164.514(f) or 45 CFR §164.508;
 - 2) Not to use or disclose PHI for marketing, as defined in 45 CFR §164.501, unless pursuant to the Underlying Agreement and only if permitted by and in compliance with the requirements of 45 CFR §164.508(a)(3);
 - 3) Not to disclose PHI, except as otherwise required by law, to a health plan for purposes of carrying out payment or health care operations, if the individual has requested this restriction pursuant to 42 USC §17935(a) and 45 CFR §164.522, and has paid out of pocket in full for the health care item or service to which the PHI solely relates; and,
 - 4) Not to receive, directly or indirectly, remuneration in exchange for PHI, or engage in any act that would constitute a sale of PHI, as defined in 45 CFR §164.502(a)(5)(ii), unless permitted by the Underlying Agreement and in compliance with the requirements of a valid authorization under 45

CFR §164.508(a)(4). This prohibition shall not apply to payment by County to Contractor for services provided pursuant to the Underlying Agreement.

4. **Obligations of County.**

- A. County agrees to make its best efforts to notify Contractor promptly in writing of any restrictions on the use or disclosure of PHI and/or ePHI agreed to by County that may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.
- B. County agrees to make its best efforts to promptly notify Contractor in writing of any changes in, or revocation of, permission by any individual to use or disclose PHI and/or ePHI, if such changes or revocation may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.
- C. County agrees to make its best efforts to promptly notify Contractor in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect Contractor's use or disclosure of PHI and/or ePHI.
- D. County agrees not to request Contractor to use or disclose PHI and/or ePHI in any manner that would not be permissible under HITECH, HIPAA, the Privacy Rule, and/or Security Rule.
- E. County agrees to obtain any authorizations necessary for the use or disclosure of PHI and/or ePHI, so that Contractor can perform its obligations under this Addendum and/or Underlying Agreement.

5. **Obligations of Contractor.** In connection with the use or disclosure of PHI and/or ePHI, Contractor agrees to:

- A. Use or disclose PHI only if such use or disclosure complies with each applicable requirement of 45 CFR §164.504(e). Contractor shall also comply with the additional privacy requirements that are applicable to covered entities in HITECH, as may be amended from time to time.
- B. Not use or further disclose PHI and/or ePHI other than as permitted or required by this Addendum or as required by law. Contractor shall promptly notify County if Contractor is required by law to disclose PHI and/or ePHI.
- C. Use appropriate safeguards and comply, where applicable, with the Security Rule with respect to ePHI, to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Addendum.
- D. Mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI and/or ePHI by Contractor in violation of this Addendum.
- E. Report to County any use or disclosure of PHI and/or ePHI not provided for by this Addendum or otherwise in violation of HITECH, HIPAA, the Privacy Rule, and/or Security Rule of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410.
- F. In accordance with 45 CFR §164.502(e)(1)(ii), require that any subcontractors that create, receive, maintain, transmit or access PHI on behalf of the Contractor agree through contract to the same restrictions and conditions that apply to Contractor with respect to such PHI and/or ePHI, including the restrictions and conditions pursuant to this Addendum.
- G. Make available to County or the Secretary, in the time and manner designated by County or Secretary, Contractor's internal practices, books and records relating to the use, disclosure and privacy protection of

PHI received from County, or created or received by Contractor on behalf of County, for purposes of determining, investigating or auditing Contractor's and/or County's compliance with the Privacy Rule.

- H. Request, use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of the request, use or disclosure in accordance with 42 USC §17935(b) and 45 CFR §164.502(b)(1).
 - I. Comply with requirements of satisfactory assurances under 45 CFR §164.512 relating to notice or qualified protective order in response to a third party's subpoena, discovery request, or other lawful process for the disclosure of PHI, which Contractor shall promptly notify County upon Contractor's receipt of such request from a third party.
 - J. Not require an individual to provide patient authorization for use or disclosure of PHI as a condition for treatment, payment, enrollment in any health plan (including the health plan administered by County), or eligibility of benefits, unless otherwise excepted under 45 CFR §164.508(b)(4) and authorized in writing by County.
 - K. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use, disclosure, or access of PHI and/or ePHI.
 - L. Obtain and maintain knowledge of applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.
 - M. Comply with the requirements of the Privacy Rule that apply to the County to the extent Contractor is to carry out County's obligations under the Privacy Rule.
 - N. Take reasonable steps to cure or end any pattern of activity or practice of its subcontractor of which Contractor becomes aware that constitute a material breach or violation of the subcontractor's obligations under the business associate contract with Contractor, and if such steps are unsuccessful, Contractor agrees to terminate its contract with the subcontractor if feasible.
6. **Access to PHI, Amendment and Disclosure Accounting.** Contractor agrees to:
- A. **Access to PHI, including ePHI.** Provide access to PHI, including ePHI if maintained electronically, in a designated record set to County or an individual as directed by County, within five (5) days of request from County, to satisfy the requirements of 45 CFR §164.524.
 - B. **Amendment of PHI.** Make PHI available for amendment and incorporate amendments to PHI in a designated record set County directs or agrees to at the request of an individual, within fifteen (15) days of receiving a written request from County, in accordance with 45 CFR §164.526.
 - C. **Accounting of disclosures of PHI and electronic health record.** Assist County to fulfill its obligations to provide accounting of disclosures of PHI under 45 CFR §164.528 and, where applicable, electronic health records under 42 USC §17935(c) if Contractor uses or maintains electronic health records. Contractor shall:
 - 1) Document such disclosures of PHI and/or electronic health records, and information related to such disclosures, as would be required for County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record in accordance with 45 CFR §164.528.
 - 2) Within fifteen (15) days of receiving a written request from County, provide to County or any individual as directed by County information collected in accordance with this section to permit

County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record.

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

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

1. Comply with the applicable requirements of the Security Rule, and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that Contractor creates, receives, maintains, or transmits on behalf of County in accordance with 45 CFR §164.308, §164.310, and §164.312;
2. Comply with each of the requirements of 45 CFR §164.316 relating to the implementation of policies, procedures and documentation requirements with respect to ePHI;
3. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;
4. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or required under the Privacy Rule;
5. Ensure compliance with the Security Rule by Contractor's workforce;
6. In accordance with 45 CFR §164.308(b)(2), require that any subcontractors that create, receive, maintain, transmit, or access ePHI on behalf of Contractor agree through contract to the same restrictions and requirements contained in this Addendum and comply with the applicable requirements of the Security Rule;
7. Report to County any security incident of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410; and,
8. Comply with any additional security requirements that are applicable to covered entities in Title 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time, including but not limited to HITECH.
8. **Breach of Unsecured PHI.** In the case of breach of unsecured PHI, Contractor shall comply with the applicable provisions of 42 USC §17932 and 45 CFR Part 164, Subpart D, including but not limited to 45 CFR §164.410.

A. **Discovery and notification.** Following the discovery of a breach of unsecured PHI, Contractor shall notify County in writing of such breach without unreasonable delay and in no case later than 60 calendar days after discovery of a breach, except as provided in 45 CFR §164.412.

- 1) **Breaches treated as discovered.** A breach is treated as discovered by Contractor as of the first day on which such breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor, which includes any person, other than the person committing the breach, who is an employee, officer, or other agent of Contractor (determined in accordance with the federal common law of agency).

- G. **Additional State Reporting Requirements.** The parties agree that this Section 8.G applies only if and/or when County, in its capacity as a licensed clinic, health facility, home health agency, or hospice, is required to report unlawful or unauthorized access, use, or disclosure of medical information under the more stringent requirements of California Health & Safety Code §1280.15. For purposes of this Section 8.G, "unauthorized" has the meaning given such term in California Health & Safety Code §1280.15(j)(2).
- 1) Contractor agrees to assist County to fulfill its reporting obligations to affected patients and to the California Department of Public Health ("CDPH") in a timely manner under the California Health & Safety Code §1280.15.
 - 2) Contractor agrees to report to County any unlawful or unauthorized access, use, or disclosure of patient's medical information without unreasonable delay and no later than two (2) business days after Contractor detects such incident. Contractor further agrees such report shall be made in writing, and shall include substantially the same types of information listed above in Section 8.A.2 (Content of Notification) as applicable to the unlawful or unauthorized access, use, or disclosure as defined above in this section, understanding and acknowledging that the term "breach" as used in Section 8.A.2 does not apply to California Health & Safety Code §1280.15.

9. **Hold Harmless/Indemnification.**

- A. Contractor agrees to indemnify and hold harmless County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability 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 Addendum, including but not limited to property damage, bodily injury, death, or any other element of any kind or nature whatsoever arising from the performance of Contractor, its officers, agents, employees, subcontractors, agents or representatives from this Addendum. 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, of County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents or representatives in any claim or action based upon such alleged acts or omissions.
- B. 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 choice, subject to the approval of County, which shall not be unreasonably withheld, 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 County as set forth herein. Contractor's obligation to defend, indemnify and hold harmless County shall be subject to County having given Contractor written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Contractor's expense, for the defense or settlement thereof. 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.
- C. The specified insurance limits required in the Underlying Agreement of this Addendum shall in no way limit or circumscribe Contractor's obligations to indemnify and hold harmless County herein from third party claims arising from issues of this Addendum.

- D. In the event there is conflict between this clause and California Civil Code §2782, this clause shall be interpreted to comply with Civil Code §2782. Such interpretation shall not relieve the Contractor from indemnifying County to the fullest extent allowed by law.
- E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Addendum, this indemnification shall only apply to the subject issues included within this Addendum.
10. **Term.** This Addendum shall commence upon the Effective Date and shall terminate when all PHI and/or ePHI provided by County to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy PHI and/ePHI, protections are extended to such information, in accordance with section 11.B of this Addendum.
11. **Termination.**
- A. **Termination for Breach of Contract.** A breach of any provision of this Addendum by either party shall constitute a material breach of the Underlying Agreement and will provide grounds for terminating this Addendum and the Underlying Agreement with or without an opportunity to cure the breach, notwithstanding any provision in the Underlying Agreement to the contrary. Either party, upon written notice to the other party describing the breach, may take any of the following actions:
- 1) Terminate the Underlying Agreement and this Addendum, effective immediately, if the other party breaches a material provision of this Addendum.
 - 2) Provide the other party with an opportunity to cure the alleged material breach and in the event the other party fails to cure the breach to the satisfaction of the non-breaching party in a timely manner, the non-breaching party has the right to immediately terminate the Underlying Agreement and this Addendum.
 - 3) If termination of the Underlying Agreement is not feasible, the breaching party, upon the request of the non-breaching party, shall implement, at its own expense, a plan to cure the breach and report regularly on its compliance with such plan to the non-breaching party.
- B. **Effect of Termination.**
- 1) Upon termination of this Addendum, for any reason, Contractor shall return or, if agreed to in writing by County, destroy all PHI and/or ePHI received from County, or created or received by the Contractor on behalf of County, and, in the event of destruction, Contractor shall certify such destruction, in writing, to County. This provision shall apply to all PHI and/or ePHI which are in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of PHI and/or ePHI, except as provided below in paragraph (2) of this section.
 - 2) In the event that Contractor determines that returning or destroying the PHI and/or ePHI is not feasible, Contractor shall provide written notification to County of the conditions that make such return or destruction not feasible. Upon determination by Contractor that return or destruction of PHI and/or ePHI is not feasible, Contractor shall extend the protections of this Addendum to such PHI and/or ePHI and limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as Contractor maintains such PHI and/or ePHI.
12. **General Provisions.**
- A. **Retention Period.** Whenever Contractor is required to document or maintain documentation pursuant to the terms of this Addendum, Contractor shall retain such documentation for 6 years from the date of its creation or as otherwise prescribed by law, whichever is later.

- B. **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for County to comply with HITECH, the Privacy Rule, Security Rule, and HIPAA generally.
- C. **Survival.** The obligations of Contractor under Sections 3, 5, 6, 7, 8, 9, 11.B and 12.A of this Addendum shall survive the termination or expiration of this Addendum.
- D. **Regulatory and Statutory References.** A reference in this Addendum to a section in HITECH, HIPAA, the Privacy Rule and/or Security Rule means the section(s) as in effect or as amended.
- E. **Conflicts.** The provisions of this Addendum shall prevail over any provisions in the Underlying Agreement that conflict or appear inconsistent with any provision in this Addendum.
- F. **Interpretation of Addendum.**
 - 1) This Addendum shall be construed to be part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of the Privacy Rule, Security Rule, HIPAA and HITECH.
 - 2) Any ambiguity between this Addendum and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, Security Rule, HIPAA and HITECH generally.
- G. **Notices to County.** All notifications required to be given by Contractor to County pursuant to the terms of this Addendum shall be made in writing and delivered to the County both by fax and to both of the addresses listed below by either registered or certified mail return receipt requested or guaranteed overnight mail with tracing capability, or at such other address as County may hereafter designate. All notices to County provided by Contractor pursuant to this Section shall be deemed given or made when received by County.

County HIPAA Privacy Officer: HIPAA Privacy Manager

County HIPAA Privacy Officer Address: 26520 Cactus Avenue, Moreno Valley, CA 92555