

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



ITEM
3.86
(ID # 5067)

MEETING DATE:

Tuesday, August 29, 2017

FROM : RIVERSIDE UNIVERSITY HEALTH SYSTEM (RUHS):

SUBJECT: RIVERSIDE UNIVERSITY HEALTH SYSTEM (RUHS): Approval of the Professional Services Agreement with Soyring Consulting to provide comprehensive Assessment and Consultative Services for Case Management and Clinical Services without seeking competitive bids; [All Districts]; [\$369,830] total; Hospital Enterprise Fund

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and execute the Professional Services agreement with Soyring Consulting to provide Consulting services to the areas of Case Management, Utilization Management and Social Service programs without seeking competitive bids for total contract aggregate not to exceed \$369,830; and.
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved by County Counsel to: sign amendments that do not change the substantive terms of the agreement and sign amendments to the compensation provisions that do not exceed ten (10) percent annually

ACTION:

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Perez and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Perez and Ashley
Nays: None
Absent: Tavaglione
Date: August 29, 2017
xc: RUHS; Purchasing

Kecia Harper-Ihem
Clerk of the Board

By: 
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 308,192	\$ 61,638	\$ 369,830	
NET COUNTY COST				
SOURCE OF FUNDS: Hospital Enterprise Fund 40050			Budget Adjustment:	No
			For Fiscal Year:	17/18-18/19

C.E.O. RECOMMENDATION: [CEO use]

BACKGROUND:

Summary

The requested board action will allow the Medical Center to secure consulting services with an Interim Director to assess, develop, and implement a redesign of Case Management, Utilization Management, and Social Services programs that includes strategies for efficiency, stewardship, and an organizational structure that will support the needs of patients for RUHS Medical Center (Arlington and Moreno Valley Campus).

Soyring Consulting, experienced in Case Management/ Utilization Management/ Social Services(including those services provided at an acute psychiatric hospital) is needed at RUHS and the Moreno Valley Campus to conduct an in-depth assessment, implement identified strategies, redesign case management and provide qualified Interim leadership to aide in eliminating revenue loss until a permanent Director is recruited. Furthermore, Soyring will provide the following services,

Assess Regulatory compliance, RAC internal Monitoring processes and perform UR Committee reports

Propose processes that will enhance workflow, reduce denials and enhance department daily functions

Observe the following performance metrics to improve quality of care; DRG, Patient Satisfaction, Denials, Clinical appeals and success rates

Collaborate with department staff and Administrative leadership to produce and implement long term productivity goals and sustain long term and short term staffing needs goals

Survey and evaluate discharge planning practices to meet Condition of Participation requirements

Evaluate and assist in eliminating obstacles to discharge protocols

Observe Admitting Practices

Recommendation of new organizational case management model

Recommendations for Behavioral Health program integration

Soyring Consulting, a leader in performance and process improvement has extensive experience in fostering operational processes and procedures for all types of hospitals; Not For Profit, Profit, Academic Medical centers and Ambulatory care. Soyring has completed 300 plus projects in 40 states. Their sorted hospital experience has provided their consultants with the added knowledge of licensing standards, administrative protocols and delivering quality and

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efficient service. Soyring's expansive experience in facility related care has lent to appropriate facility level benchmarking which enables the facility to refine the collected data, define the best possible and reliable metric that will be utilized for continual tracking improvements in the areas of net revenue, process improvements and right size staffing.

RUHS currently does not have a permanent Case Management Director. Until the position is filled, additional services from Soyring Consulting are needed to provide guidance on the re-direction of RUHS Medical Center's Case Management Department. While the term of the Contract Agreement is through August 31, 2018, it also contains a thirty day no cause termination provision and the County is not obligated to purchase or use any specific amount of Soyring's services during this period. Additionally, Soyring will not under the Agreement direct the work of the County employees or make any decisions regarding employee status, assignments, or job descriptions. They will not perform any functions that would suggest or imply any authority over County employees and/or County operations and management.

Impact on Residents and Businesses

The patients of the hospital would benefit from an improvement in quality of care. A concentration in reevaluating staffing needs as well as workflow will aide in determining the areas for care improvement. Furthermore a deep focus in patient satisfaction initiatives that align with the hospitals goals will strengthen RUHS reputation for excellence in quality of care throughout the community.

Contract History and Price Reasonableness

In January of 2017 three vendors were identified as potential supplier of professional services:

- Rightsourcing
- Soyring Consulting; and
- Randstad Professional US, LLC dba Tatum.

Of the three vendors, two have the capability to provide both consulting and Interim Management Services while the other only provides one component:

- Soyring Consulting: A company under Press Ganey, a leader in Case Management turnarounds has extensive experience with major academic, tertiary, and County medical centers across the country including California. Soyring has worked with UCLA, San Mateo Medical Center, Parkview Community Hospital, Stanford Hospital & Clinics, etc.. Soyring Consultant's proved to have an extensive background in Case Management, Utilization Management and Social Services. Soyring employs highly credentialed professionals with over 20 years of experience in care management fiscal intermediary Medicare and Medicare Fraud and Abuse Division.
- Randstad Professional US, LLC dba Tatum: a leader in Revenue Cycle turnarounds primarily focuses on business cycles of finance and IT services. Tatum's Consultants concentrate mainly on Fiscal and revenue cycle reporting.

RUHS Executive Team determined Soyring to be most responsible of the two vendors.

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While Tatum's consultant pricing appeared to be the most reasonable in which the initial Assessment fee is \$48,000 compared to Soyring at \$52,300; the level of expertise and experience that Soyring employs far surpasses Tatum, LLC. The weekly cost for both consultants are \$6,000 per week. Additional expenses, including travel, are estimated and included in the fiscal year pricing. These additional expenses are included in the amount before the Board for approval. These costs will remain consistent with and not exceed the county's travel policy limits.

I



Douglas Cady, Principal Management Analyst

8/21/2017



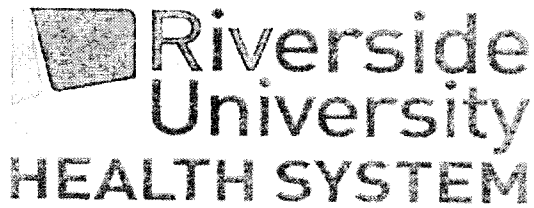
Teresa Summers, Assistant Director of Purchasing

8/18/2017



Gregory V. Priapos, Director County Counsel

8/18/2017



Date:

From: Zareh Sarrafian, Assistant CEO – Health Systems

To: Board of Supervisors/Purchasing Agent

Via:

Subject: Sole Source Procurement; Request for Consulting Services with Interim Director

The below information is provided in support of my Department requesting approval for a sole source.

1. **Supplier being requested: Soyring (recently acquired by Press Ganey)**
2. **Vendor ID: #213234**
3. **Supply/Service being requested:** Consulting services with an Interim Director to assess, develop, and implement a redesign of Case Management, Utilization Management, and Social Services programs including strategies for efficiency, stewardship, and an organizational structure that will support the needs of patients for RUHS Medical Center (Arlington and Moreno Valley Campus).
4. **Alternative suppliers that can or might be able to provide supply/service and extent of market search conducted:**

Three vendors; two national and one local were identified as potential suppliers of professional services:

- Rightsourcing
- Soyring Consulting; and
- Randstad Professional US, LLC dba Tatum

Only two of the three vendors have the capability to provide both consulting and Interim Management Services:

- **Soyring Consulting:** A company under Press Ganey, a leader in Case Management turnarounds and has extensive experience with major academic, tertiary, and County medical centers across the country including California: UCLA, San Mateo Medical Center, Parkview Community Hospital, Stanford Hospital & Clinics, etc.; and
- **Randstad Professional US, LLC dba Tatum:** a leader in Revenue Cycle turnarounds primarily focused on business cycles of finance and IT services.

See attached Exhibit # 1 for detailed comparison of proposals put for the by these two vendors.

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

Soyring Consulting was identified to have available consultants with the most experience in Case Management / Utilization Management / Social Services(including those services provided at an

acute psychiatric hospital) to (a) conduct an in-depth assessment, develop recommendations, provide recommendations for implementation of identified strategies, and (b) provide qualified Interim leadership to the department until a permanent Director is recruited. The company can quickly start the assessment process and has identified the consulting team and Interim Director who can start on September 15, 2017..

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

- Since February 2017, insurance denials are above >\$2M up from \$362,966 in January 2017.
- Plan is to reorganize the department and its processes to improve efficiency and reduce loss of revenue

The department of Case Management has been unsuccessful in recruiting an experienced and qualified Director to lead, assess, and restructure the Case management, Utilization management, and Social services functions at the main medical center and the Arlington campus. RUHS-MC has recently acquired the professional recruiting services of Ceijka to search for a permanent Director, Case Management Services. In the meantime, the department needs to have an interim Director and an immediate assessment of its operations to improve workflow processes, reduce denials and operational efficiencies.

7. Period of Performance:

Is this an annually renewable contract? No

Is this a fixed-term agreement? Yes: 6 month for Interim Director and for assessment, planning, and implementation of consulting services with option to renew for an additional 6 months..

Agreement can be terminated without cause with 30 day notice.

8. Identify all costs for this requested purchase. If approval is for multiple years, ongoing costs must be identified below. If annual increases apply to ongoing costs such as CPI or other contract increases, provide the estimated annual cost for each consecutive year. If the annual increase may exceed the Purchasing Agent's authority, Board approval must be obtained.

Description:	FY17/18	FY18/19	Total
One-time Costs:	\$369,830	n/a	\$369,830
<i>Expenses included</i>	(a) Consulting services to assess, recommend, and implement approved recommendations. Expense cap \$10,460 for Consulting expenses (b) 6 months duration for Interim Director at \$6,000/week Expense cap \$73,230 for 12 months duration of Interim Director		
Ongoing Costs:	n/a	n/a	
<i>(Insert description)</i>			
Total Costs	\$369,830		\$369,830

9. Price Reasonableness:

Soyring Consulting (2017 Case Management RSS)

Comparison of Soyring Consulting and Randstad Professional US dba Tatum services

	<u>Soyring (now Press Ganey)</u>	<u>Tatum</u>
Primary Expertise & Services	<ul style="list-style-type: none"> • Case Management • Utilization Management • Social Services • Care Continuum <ul style="list-style-type: none"> ○ County hospitals in California ○ Academic Hospitals in California and across the county ○ Tertiary Hospitals ○ Managed Care plans 	<ul style="list-style-type: none"> • Fiscal • Revenue Cycle • IT
Hospital Case Management, Utilization Management, & Social Services	<ul style="list-style-type: none"> • Acute Care • Psychiatric Inpatient • Academic Medical Centers • Tertiary Medical Centers • Inpatient & Outpatient • Has worked with IEHP 	None provided
Consulting Services	Yes	Yes
# Consultants/ Interim Director availability	4 <ul style="list-style-type: none"> • Project Advisor • Project Director • Consultant • Interim Director for departments 	1 <ul style="list-style-type: none"> • Interim Director
Qualifications of Consultants		
Project Advisor	BS, MS, DHA, FACHE Vice President Expertise in Case management/IEHP/ quality; model re-design	Non-applicable
Project Director	RN, BSN, MS 25 years project management and re-engineering departments.	Non-applicable
Interim Manager	RN, DNP, CPHQ experience as CNO, Case Management, workflow, change facilitator, department turnarounds	AS in Nursing with a BA in Communications, and MHA Manager of account operations, quality, and accounts management. Director Case management 10 years ago.
Consultant	RN, BA, MHA, LHRM 20 years experience in denial management, care management models, surveyor for Acute Care and Ambulatory Surgery Centers, fiscal intermediary Medicare, and Medicare Fraud and Abuse division.	Non-applicable
Scope of Service	Detailed and specific with objectives, deliverables, and implementation assistance	Broad objectives and deliverables
Timeline	Yes Report by week 5	No Report by weeks 6-8
Pricing	<ul style="list-style-type: none"> • \$52,300 initial assessment of services • \$6,000/ week for Interim Director 	<ul style="list-style-type: none"> • \$48,000 initial assessment @ \$150/hr • \$6,000/ week for Interim Director
Term of Agreement	30 day written notice	30 day written notice

See Exhibit # 1 – Soyring will provide the assessment services with four experienced consultants for only four thousand dollars more than the single consultant option proposed by the other vendor. Per week price for Interim Director Services is identical.

10. Projected Board of Supervisor Date (if applicable): August 29, 2017

Department Head Signature

Print Name

Date

Purchasing Department Comments:

Approve

Approve with Condition/s

Disapprove

Not to exceed: \$ 369,830

One time

Annual Amount through

8/29/18
(Date)

Purchasing Agent

Date

Approval Number

(Reference on Purchasing Documents)

List Attachments: Contract Agreement

PROFESSIONAL SERVICE AGREEMENT

For

Comprehensive Assessment /Consultative Services for Case Management and Clinical Services

between

COUNTY OF RIVERSIDE

And

Soyring Consulting



AUG 29 2017 3.86

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This Agreement, made and entered into this September 15, 2017, by and between Soyring Consulting, Inc. (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE (herein referred to as "COUNTY"), a political subdivision of the State of California on behalf of Riverside University Health System, (herein referred to as "RUHS"). The parties agree as follows:

1. Description of Services

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting of two page at the prices stated in Exhibit B, Payment Provisions, consisting of one page, and Attachment I, HIPAA Business Associate Attachment to the Agreement, consisting of ten pages.

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

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

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

2. Period of Performance

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect for six (6) months (the "Initial Term"), with the option to renew for an additional six (6) months (the "Subsequent Term") by written amendment, unless terminated earlier. CONTRACTOR shall commence performance as of the Effective Date 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 B, Payment Provisions, and this agreement. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$369,830 per year including all expenses. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. As stated in

Exhibit B, COUNTY shall be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

3.2 The COUNTY must provide CONTRACTOR thirty (30) days written notice of intent to reschedule or cancel scheduled on-site visits. If travel is scheduled at the request of the COUNTY, and the COUNTY reschedules or cancels less than thirty (30) days prior to travel, travel expenses incurred by CONTRACTOR for which CONTRACTOR is unable to receive a refund or credit will be billed to the COUNTY at cost.

3.3 No price increases will be permitted during the first year of this Agreement. 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.

3.4 CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within forty-five (45) working days from the date of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by the Executive Sponsor for the COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside University Health System
Attn: Hospital Administration
26520 Cactus Avenue, Suite A-2060
Moreno Valley, CA 92555

- a) Each invoice shall contain a minimum of the following information: invoice number and date; description of services, amount due and any reimbursable expenses, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.

The COUNTY shall submit each payment to: Soyring Consulting, Inc., Box 88335, Milwaukee, WI 53288-0335.

3.5 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. In the State of California, Government agencies are not allowed to pay excess interest and late charges, per Government Codes, Section 926.10. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are

made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, 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, request to alter this Agreement on behalf of the COUNTY. If any such alteration is mutually agreed upon by both parties the Agreement shall be modified by written amendment signed by those representatives of the County and CONTRACTOR.

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

5. Termination

5.1. Following the completion of the initial twelve (12) week commitment detailed in Exhibit A and Exhibit B, either party may terminate this Agreement without cause upon 30 days written notice served upon the other party stating the extent and effective date of termination.

5.2 Either party may, upon written notice terminate this Agreement for the other party's default, if the other party refuses or fails to comply with the material terms of this Agreement or fails to make progress that may endanger performance and does not cure such failure within thirty (30) days written notice of said breach. 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, CONTRACTOR shall:

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

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

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

5.6 The rights and remedies 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**

6.1 Except as expressly provided for otherwise in this Agreement (a) CONTRACTOR and the COUNTY will each retain all intellectual property rights that each owns as of and prior to the Effective Date (the "Preexisting Intellectual Property"); and (b) this Agreement will not be interpreted or construed to grant either party any additional rights, title, interest or license in the other party's Preexisting Intellectual Property. CONTRACTOR's Preexisting Intellectual Property includes, without limitation, trademarks, service marks, branding, logos, trade secrets, methodologies, training methodologies or models, comparative and benchmark databases and any related documentation generated by or on behalf of CONTRACTOR or any CONTRACTOR personnel as well as any technology, software, code, processes, know-how, or tools that have independent value outside of the Work Product (as defined below).

6.2 Each Party hereby grants to the other Party a non-exclusive, non-transferable, non-sublicensable, limited license to use or access the granting Party's intellectual property solely to the extent necessary to perform its obligations under this Agreement.

6.3 The COUNTY will own all rights, title, and interest in certain materials created under the Agreement (the "Work Product") which will be mutually determined by the Parties and may include:

- i. Presentations
- ii. Reports
- iii. Analyses

6.4 The Work Product may contain or reference CONTRACTOR's Preexisting Intellectual Property. For avoidance of doubt, CONTRACTOR will retain all rights, title, and interest (including,

without limitation, all intellectual property rights) to that Preexisting Intellectual Property of CONTRACTOR that may be contained in the Work Product, subject to the limited license provided under Section 6.b. Each party will obtain prior written approval from the other party regarding any display of the Work Product which is marked "Proprietary" and include attribution as approved and required by CONTRACTOR, including but not limited to CONTRACTORS trademarks, service marks, and copyright notices, in any display of Work Product.

7. Contractor Responsibilities

7.1 Personnel. Prior to the effective date, CONTRACTOR will designate, subject to the agreement of COUNTY which shall not be unreasonably withheld, a lead consultant to manage the Services and a core group of consultants to provide the Services. CONTRACTOR will seek to maintain continuity in the project team. COUNTY agrees that these CONTRACTOR representatives may not work exclusively for the COUNTY, but should it become necessary to change a designated consultant CONTRACTOR will propose a new individual subject to approval, which will not be unreasonably withheld or delayed, by COUNTY.

7.2 Manner of Provision. CONTRACTOR shall determine the method, details and means of performing the services, subject to the standards set forth in Exhibit A and the approval of the COUNTY, which shall not be unreasonably withheld or delayed.

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

7.4 The CONTRACTOR 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 the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

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

8. Independent Contractor/Employment Eligibility

8.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor to the COUNTY and nothing in this agreement shall be construed as creating or implying a legal partnership, agency, joint venture or employment relationship between the parties, not shall either Party have the right, power or authority, whether express or implied, to assume, create or incur any expense, liability or obligation, whether express or implied, on behalf of the other party . It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and in the event that an employee of CONTRACTOR believes an employer-employee relationship exists between the employee and the COUNTY, CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by CONTRACTOR's employee's that an employer-employee relationship exists between CONTRACTORS employees and the COUNTY by reason of this. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

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

8.3 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.

8.4 CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement. CONTRACTOR shall not hire or engage any Ineligible Person to provide services directly relative to this Agreement. CONTRACTOR shall screen all current Covered Individuals within sixty (60) days of execution of this Agreement to ensure that they have not become Ineligible Persons unless

CONTRACTOR has performed such screening on same Covered Individuals under a separate agreement with COUNTY within the past six (6) months. Covered Individuals shall be required to disclose to CONTRACTOR immediately any debarment, exclusion or other event that makes the Covered Individual an Ineligible Person. CONTRACTOR shall notify COUNTY within five (5) business days after it becomes aware if a Covered Individual providing services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an Ineligible Person.

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

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

9. Client Representations and Warranties

The COUNTY also represents and warrants (i) that it is and will be the owner, valid licensee, or authorized user of all County Materials that it will make available to CONTRACTOR in connection with performance of the Services, (ii) that it has obtained or will obtain all necessary third-party consents and permission to make the County Materials available for review and use by CONTRACTOR, and (iii) that CONTRACTOR'S access to and use of the County Materials will not violate any applicable law or infringe or misappropriate any copyright, trade secret, trademark, patent or other proprietary intellectual property right of any third party.

9.1 Non-Solicitation of Personnel.

The parties agree not to solicit for employment any of the employees of the other party during the term of this Agreement and for two years following the completion of the services under this Agreement except with written approval from the other party,; provided, however, nothing in this clause shall prohibit an employee from responding to a general solicitation of employment such as a newspaper ad or job postings on an employment website.

10. Subcontract for Work or Services

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

11. Disputes

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 Prior to filing any form of legal action relating to this Agreement the parties stipulate that there will be a face to face meeting of the COUNTY's Chief Executive Officers and the CONTRACTOR's Consulting Partner for the purpose of attempting in good faith a non-judicial resolution of the underlying dispute . The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute

12. Licensing and Permits; Consents and Authorization

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

12.2 The COUNTY presently does not know of any permits, approvals, certificates, waivers and exemptions as required by the laws and regulations of the United States, the State of California or any other governmental agencies with jurisdiction that the COUNTY must obtain for CONTRACTOR's performance of this Agreement. COUNTY agrees the if either COUNTY or CONTRACTOR identifies such a license, permit, approval, certificate, waiver or exemption COUNTY will make good faith efforts to obtain and continue to maintain it throughout the Term. COUNTY will notify CONTRACTOR if it is unable to obtain any such licenses, etc. and the parties shall discuss necessary modifications of the Agreement in good faith.

12.3 CONTRACTOR agrees to the provisions of Attachment I, the parties Business Associate Agreement.

13. Non-Discrimination

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

14. Records and Documents

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

15. Confidentiality

15.1 The CONTRACTOR shall not use for personal gain or make other improper use nor otherwise utilize, alter/modify, or create derivative works from the other parties' privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" is all information of the disclosing party that is not generally known to the public and is used, obtained or developed by that party in connection with its business and which is disclosed in writing, verbally, electronically or by any other means directly or indirectly by the disclosing party to the other party, which includes but is not limited to: unpublished or sensitive technological or scientific information, methodologies and protocols; personnel, or security records; anticipated material requirements or pricing/purchasing actions; information or data which is not subject to public disclosure; operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

15.2 The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall

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

15.3 Both parties warrants that it will only use Confidential Information as authorized by the disclosing party and in direct connection with the services. Both parties acknowledges and agrees that irreparable harm would result to the disclosing party upon any breach of the covenants contained in this Section and that damages arising out of such breach may be difficult to ascertain. Therefore, both parties agree that, in addition to all other remedies provided at law or in equity, the disclosing party may seek, without bond, from a court of law or equity both temporary and permanent injunctive relief to prevent a breach of any of such covenants.

15.4 "Confidential Information" shall not include any Protected Health Information (as that term is defined in 45 C.F.R. § 160.103) received from, or received, maintained, transmitted or created on behalf of, the COUNTY by CONTRACTOR in connection with the services (collectively, "PHI"). All PHI shall be subject to the business associate agreement ("BAA") as required by law, between the parties attached to and incorporated into this Agreement as Attachment 1, which may be amended and/or restated from time to time by the parties. In the event of a conflict between this Agreement or any SOW, on the one hand, and the BAA, on the other hand, relating to creation, receipt, maintenance or transmission of PHI, the terms and conditions of the BAA shall control.

16. Administration/Contract Liaison

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

17. 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 University Health System
26520 Cactus Avenue

CONTRACTOR

Soyring Consulting
c/o Press Ganey Associates, Inc.

Moreno Valley, CA 92555

404 Columbia Place
South Bend IN 46601
Attn: Contracts Dept

18. 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, and without its fault or negligence such party shall not be held liable for such failure to comply. However, if by reason of a force majeure either party shall be rendered unable to carry out its obligations under this Agreement, either in whole or part, then such party shall give notice and full particulars of such force majeure in writing to the other Party reasonably soon after occurrence of the event or course relied upon. The party providing notice of a force majeure shall endeavor to remove or overcome such inability with all reasonable effort.

19. WARRANTY.

19.1 CONTRACTOR warrants that services provided hereunder will be performed in a professional and workmanlike manner, and that the Work Product delivered by CONTRACTOR to the COUNTY will conform substantially to the specifications in Exhibit A.

19.2 Disclaimer - CONTRACTOR does not warrant or represent that the services provided pursuant to this Agreement will be capable of achieving any particular result in the COUNTY's business, that all errors, defects or deficiencies can or will be found or corrected, or that the operation of any Work Product which is the subject of the task specifications will operate uninterrupted or error free. With regard to services that do not comply with the warranties provided in this Section, CONTRACTOR shall correct or adjust any defective performance or nonperformance ("Defects"), of the services provided that the COUNTY notifies CONTRACTOR in accordance with Section of such non-compliance. If the Defects are not cured within the period set forth in Section 5, Client may terminate this Agreement pursuant to that Section.

19.3 THE WARRANTIES SET FORTH IN THIS SECTION (WARRANTY) ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

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

21. Hold Harmless/Indemnification and Limitation of Liability

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

21.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

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

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

21.5 COUNTY agrees to indemnify and hold harmless the CONTRACTOR, its directors, officers, parent entities, subsidiaries, employees, shareholders, agents and its successors and assigns (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted by a third party upon a breach of COUNTY's duties under this Agreement and / or any failure by the COUNTY to obtain a needed license etc. under paragraph 12.b COUNTY shall defend at its sole expense, 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.

21.6 **Limitation of Liability.** Notwithstanding any other provision of this Agreement and except as specified in Section 13(a) (Termination and Survival) or where this exclusion or restriction of liability would be void or ineffective under applicable law, in no event will either Party be liable to the other under, in connection with or related to this Agreement for any special, indirect, consequential, exemplary or punitive damages (including, without limitation, loss of profits or revenues, loss of goodwill, penalties or withholding of reimbursement by a health care payer, state/federal agency or other entity) whether based on breach of contract, warranty, tort, product liability or any other legal theory, even if that Party has been advised of the possibility of such damages. The Parties further agree that, notwithstanding any other provision of this Agreement, or any other agreement between the Parties or exhibit hereto, CONTRACTOR's total cumulative liability under, in connection with or related to this Agreement or in furtherance of the Agreement's provisions or objectives, shall be limited to actual, direct damages not to exceed three times the amount paid (less any refunds or credits) by the COUNTY to CONTRACTOR during the twelve (12) month period preceding the date of the claim. The Parties further agree that, CONTRACTOR's total cumulative liability under, in connection with or related to the BAA, shall be limited to actual, direct damages not to exceed six times the amount paid (less any refunds or credits) by the COUNTY to CONTRACTOR during the twelve (12) month period preceding the date of the claim.

22. Insurance

22.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts,

Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

A. Workers' Compensation:

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

B. Commercial General Liability:

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

C. Vehicle Liability:

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

D. Professional Liability:

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

E. General Insurance Provisions - All lines:

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

2) CONTRACTOR warrants that it is not self-insured.

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

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

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the 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 the CONTRACTOR has become inadequate.

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

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

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

23. General

23.1 CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY assignment of this agreement in whole or in part to Press Ganey Associates, Inc. Any attempt to delegate or assign any interest herein to any other person, organization or entity shall be deemed void and of no force or effect.

23.2 No provision of or right or obligation in this Agreement shall be deemed waived by a party unless such waiver is in writing and signed by the party against whom enforcement is sought. Any waiver by either party 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.

23.3 Notwithstanding the fact that the COUNTY may be a tax-exempt entity, the COUNTY will be responsible for payment of any sales, use, excise, value-added, personal property, export, import, withholding, transaction privilege, or similarly imposed taxes (collectively, "Taxes") assessed or imposed on it by any tax authority with respect to the payments the COUNTY makes to CONTRACTOR under this agreement (except for any taxes based on CONTRACTOR's net income or employees). The pricing set forth in Exhibit B, does not include any Taxes. The COUNTY agrees that, if at any time during or after the Term, any tax authority asserting jurisdiction over the COUNTY or any COUNTY facility: (i) assesses liability for Taxes, (ii) imposes one (1) or more Taxes, or (iii) revokes (through legislation or agency decision) any tax exemption previously relied upon by the COUNTY, the COUNTY shall assume full responsibility for and make all payments of any and all Taxes due. COUNTY will not hereby, however, take responsibility for any tax owing by CONTRACTOR.

23.4 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.

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

23.6 Both parties shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures.

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

23.8 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.

23.9 This Agreement is solely for the benefit of CONTRACTOR and the COUNTY and no third party beneficiary status shall be created with respect to any other entity or person.

23.10 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and which together shall constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile or by electronic mail in portable document format will be effective as delivery of a manually executed signature page of this Agreement.

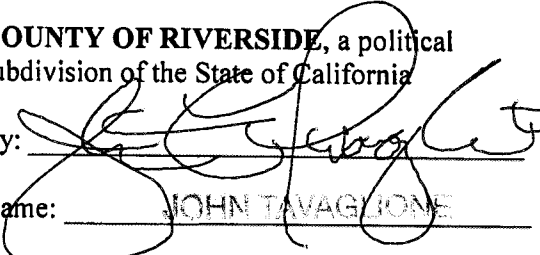
23.11 In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23.12 In addition to any other provisions herein, which by their terms, survive the termination or expiration of this agreement or that must survive in order to give meaning to other provisions of the agreement, the following language in this agreement will survive termination or expiration of this agreement: consents/authorizations; ownership and intellectual property, confidentiality, compliance obligations, taxes, indemnification and limitation of liability, and dispute resolution.


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IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement.

COUNTY OF RIVERSIDE, a political subdivision of the State of California


By: 
Name: JOHN TAVAGLIONE
Title: CHAIRMAN, BOARD OF SUPERVISORS
Date: AUG 29 2017

CONTRACTOR

By: 
Name: Joe Greskoviak
Title: President & Chief Operating Officer
Press Ganey Associates, Inc.
Date: 8/14/17

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Martha Ann Knutson,
Deputy County Counsel

ATTEST:

KECIA HARPER-HEM, Clerk

By: 
DEPUTY

SCOPE OF SERVICE
Soyring Consulting

1.0 CONTRACTOR Responsibilities for RUHS- Medical Center (Arlington and Moreno Valley campuses) shall:

A. Assessment

- Responsible for completing and presenting a detailed report regarding an in-depth assessment of daily operations as it relates to, general acute care hospital and acute psychiatric hospital case management, utilization management, and social services, including:
 - Organizational Analytics
 - Operational Processes
 - Performance Metrics
 - Quality / Patient Safety and Risk
 - Bed Management
 - Environmental Factors
- Assess regulatory compliance, Admission Status orders, RAC internal monitoring processes, Clinical appeals processes, PEPPER reports, UR Committee reports
- Recommend processes that will improve workflow, reduce denials and improve the department's overall daily functioning.
- Collaborate with Administrative leadership and department staff to develop and implement long term productivity goals and staffing needs, including an organizational structure that will support the strategies for improvement.
- Report to be completed and delivered no later than {5 weeks after effective date} October 20, 2017

B. Interim Director of Case Management / UR/ Social Services – Contractor shall provide an individual acceptable to RUHS who will:

- Promote adherence to compliance policies and appropriate standards of practice and assist preparation for regulatory reviews.
- Observe Admitting and Discharge protocols for process improvements
- Review and observe discharge planning protocols and provide feedback for methods of improvement
- Assist in the collaboration of policies and procedures improvement
- Observe performance metrics; Overall Average Length of Stay, DRG, Patient satisfaction, Denials, Clinical appeals success rates
- Deliver recommendations for process improvements and prioritizations
- Assist new staff into transitioning into new departmental roles; includes the precepting and orienting of the new permanent Director.
- Establish improved reporting methodology for productivity and quality metric observations

- Provide continued communication with Administrative Staff and departments.
- Deliver oversight and actions plans for department initiatives
- Provide Mentoring and aid in staff development
- Create and deliver a recurring report detailing progression of action items and activities
- Deliver daily leadership and support to department staff as an Interim Director to Case Management/ UR/ Social Services department
- Coordinate and assist in the implementation of strategies for improvement based on the summary report.

2.0 No Review & Approval Authority. No Supervision. While COUNTY may seek CONTRACTOR comment, assessments, or recommendations regarding employees, including, but not limited to, observations concerning performance, CONTRACTOR understands that it has no authority to direct the work of COUNTY employees or to make any decisions regarding employee status, assignments, job descriptions or to perform any functions that would purport to exercise authority over COUNTY employees and/or COUNTY operations and management. CONTRACTOR shall work closely and directly with the Chief of Ambulatory Care and Community Health Services to implement any of the above components.

3.0 COUNTY Responsibilities:

COUNTY will provide CONTRACTOR with work space at its facilities, as appropriate, which, in the judgment of the COUNTY, meets Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements, including, but not limited to, providing appropriate security and physical restrictions. CONTRACTOR will not remove Protected Health Information (PHI) from COUNTY premises in any form. COUNTY will provide reports and analysis needed by CONTRACTOR to complete its deliverables, however such reports and analyses will remain the property of COUNTY and be returned upon to it no later than the date of termination of this Agreement.

4.0 Violations of Law:

CONTRACTOR's primary role is to provide the services described in this Agreement. It is expected that CONTRACTOR will take reasonable steps to act in accordance with all applicable laws and regulations and, therefore shall inform an appropriate person of any known violations of applicable laws and regulations that it believes may exist and which relate to the work being undertaken by CONTRACTOR.

5.0 Information Technology Network:

The COUNTY will ensure CONTRACTOR has access to COUNTY network as required to perform necessary services under the engagement. CONTRACTOR will use such network only in accordance with COUNTY's policies and procedures and will complete its training in those responsibilities before beginning work under this contract.

PAYMENT PROVISION
Soyring Consulting

- 1.0 This Exhibit B outlines the fees and expenses for the Engagement, as outlined in the foregoing Professional Service Agreement. For the Assessment described in Part A of Paragraph 1.0 of Exhibit "A", Contractor shall receive a flat fee of \$52,300.00 plus any additional expenses. The COUNTY shall pay an initial \$26,150.00, with the remaining \$26,150.00, plus any additional expenses, due upon delivery and presentation. For the Interim Director of Case Management/UR and Social Services described in Part B of Paragraph 1.0 of Exhibit "A", Contractor shall receive \$6,000 per week that the individual serves in this role, with a minimum twelve (12) week commitment and automatic renewals of four weeks each until RUHS provides at least 30 days' notice of termination. Contractor's expenses will not exceed \$83,690 for thuration of this agreement.
- 2.0 CONTRACTOR shall submit a monthly invoice in arrears for services rendered. Such invoice shall be submitted no later than the 15th day of the month. COUNTY will pay for such services billed no later than forty five (45) days from the date of the invoice.
- 3.0 Maximum payments by COUNTY to CONTRACTOR shall not exceed \$369,830 for the duration of this Agreement including all expenses.
- 4.0 Travel or related expenses incurred by CONTRACTOR while performing functions on behalf of COUNTY at the request of COUNTY will be reimbursed in accordance with the procedures and standards set out in Board Policy D-1. The Board Policy D-1 can be found for public access on <http://www.rivcocob.org/boardpolicies/policy-d/POLICY-D01.pdf>.

**HIPAA Business Associate Agreement
Addendum to Contract
Between the County of Riverside and Soyring Consulting**

This HIPAA Business Associate Agreement (the "Addendum") supplements, and is made part of the agreement (the "Underlying Agreement") between the County of Riverside ("County") and Soyring Consulting, Inc. ("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:

2. **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 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 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 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 the Secretary, in the time and manner designated by 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 fifteen (15) business days of a written 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) business 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) business 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 successful security incident of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410. This Section shall constitute notice that Contractor periodically receives unsuccessful Security Incidents, including without limitation, activity such as pings and other broadcast attacks on Contractor's firewall, port scans, malware (e.g., worms, viruses), unsuccessful log-on attempts, denial-of-service attacks, and any combination of the above, and the parties agree that Contractor shall have no further obligation to notify County of such unsuccessful Security Incidents.; 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 sixty (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).

- 2) **Content of notification.** The written notification to County relating to breach of unsecured PHI shall include, to the extent possible, the following information if known (or can be reasonably obtained) by Contractor:
 - a) The identification of each individual whose unsecured PHI has been, or is reasonably believed by Contractor to have been accessed, acquired, used or disclosed during the breach;
 - b) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
 - c) A description of the types of unsecured PHI involved in the breach, such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved;
 - d) Any steps individuals should take to protect themselves from potential harm resulting from the breach;
 - e) A brief description of what Contractor is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and,
 - f) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.

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

- C. **Breach log.** To the extent breach of unsecured PHI involves less than 500 individuals, Contractor shall maintain a log or other documentation of such breaches and provide such log or other documentation on an annual basis to County not later than fifteen (15) days after the end of each calendar year for submission to the Secretary.

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

- E. **Payment of costs.** Subject to any limitation(s) of liability in the Underlying Agreement, and with respect to any breach of unsecured PHI caused solely by the Contractor's failure to comply with one or more of its obligations under this Addendum and/or the provisions of HITECH, HIPAA, the Privacy Rule or the Security Rule, Contractor agrees to reimburse County for any direct costs associated with providing all legally required notifications to individuals, media outlets, and the Secretary. This provision shall not be construed to limit or diminish Contractor's obligations to indemnify, defend and hold harmless County under Section 9 of this Addendum.

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

- 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 five (5) 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. Subject to any limitation(s) of liability in the Underlying Agreement, 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 directly out of a breach of this Addendum by Contractor, its officers, agents, employees, subcontractors, agents or representatives from this Addendum.
 - 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 may provide grounds for terminating this Addendum and the

Underlying Agreement. 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 and cure is not possible.
- 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) Within sixty (60) days of termination of this Addendum, for any reason, Contractor shall return or 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
County HIPAA Privacy Officer Phone Number: (951) 486-6471
County HIPAA Privacy Fax: (951) 486-4475