

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



ITEM: 3.39
(ID # 17530)

MEETING DATE:

Tuesday, December 14, 2021

FROM : PROBATION:

SUBJECT: PROBATION DEPARTMENT: Approve the Professional Service Agreement for SB823 Pathways to Success Program Educational Services at Probation's Juvenile Detention and Treatment Facilities between the County of Riverside and Riverside County Office of Education through June 30, 2026, without seeking competitive bids, All Districts. [Total cost \$1,516,610; \$303,322 annually; State Funds 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Professional Service Agreement with the Riverside County Office of Education (RCOE) for SB823 Pathways to Success Program Educational Services at Probation's Juvenile Detention and Treatment Facilities through June 30, 2026, without seeking competitive bids, and Authorize the Chair of the Board to execute the attached Agreement on behalf of the County;
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved as to form by County Counsel, to sign amendments that exercise the options of the Agreement including modifications of the scope of work that stay within the intent of the Agreement; and
3. Authorize the Chief Probation Officer to sign non-monetary agreements with RCOE for the Pathways to Success Program, as approved as to form by County Counsel.

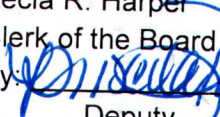
ACTION:Policy


Ronald L. Miller, Chief Probation Officer 11/25/2021

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: December 14, 2021
xc: Probation

Kecia R. Harper
Clerk of the Board
By 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 303,322	\$ 303,322	\$ 1,516,610	\$ 303,322
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: State Funds 100%			Budget Adjustment: No	
			For Fiscal Year: 21/22 – 25/26	

C.E.O. RECOMMENDATION:

BACKGROUND:

Summary

The administration and operation of juvenile court schools shall be provided by the Riverside County Office of Education, in conjunction with the Chief Probation Officer. The facility school programs are to comply with the California Education Code and Riverside County Board of Education policies and all applicable federal education statutes and regulations.

Pursuant to Welfare and Institutions Code (WIC) section 852, the Probation Department's juvenile detention and treatment facilities located throughout Riverside County are under the management and control of the Chief Probation Officer. Pursuant to WIC section 889, the Riverside County Board of Education is responsible for the administration and operation of public schools in any county juvenile detention and treatment facility. In order to define an operational plan and comply with Title 15 and WIC, the Riverside County Probation Department (Probation), in cooperation with the Riverside County Office of Education (RCOE), has agreed to enter into a Professional Service Agreement to provide a mechanism through which the agencies will define the roles and responsibilities for the educational services at Probation's juvenile detention and treatment facilities located throughout Riverside County.

Impact on Residents and Businesses

Juvenile delinquency is a county-wide challenge that impacts the safety and well-being of Riverside County's citizens. Sadly, many delinquent youths only avail themselves of educational services when in a detention setting. The delivery of an effective educational program is therefore crucial to ensuring these youth develop the basic academic and social skills necessary to acquire and maintain gainful employment. In response to this challenge, Probation and RCOE continue to provide education services that incorporate the state-mandated academic curriculum with evidence-based practices and social awareness programming to better prepare these youth to make positive contributions to their communities and the local economy upon their release.

Contract History and Price Reasonableness:

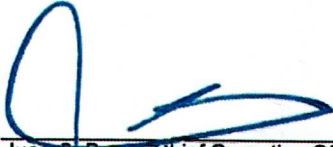
Ordinance No. 459 Section 7, Category II Exceptions, Item E, allows purchasing activities that do not require the purchasing practice of bidding and awarding under the approval of the

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

Purchasing Agent for State and federal mandates for specific participation and contracted services.

ATTACHMENTS:

RCOE PSA for SB823 Pathways to Success Educational Services



Juan C. Perez, Chief Operating Officer

12/8/2021



Gregory L. Priamos, Director County Counsel

12/2/2021

PROFESSIONAL SERVICE AGREEMENT

for

PATHWAYS TO SUCCESS PROGRAM - EDUCATIONAL SERVICES

between

COUNTY OF RIVERSIDE

and

RIVERSIDE COUNTY OFFICE OF EDUCATION



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This Agreement is made and entered into this _____ day of _____, 2021, by and between RIVERSIDE COUNTY OFFICE OF EDUCATION, (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

1. Description of Services

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

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

1.3 CONTRACTOR affirms that 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 continues in effect through June 30, 2026, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter. The Riverside County Board of Supervisors is the only authority that may obligate the County for a non-cancelable multi-year agreement.

3. Compensation

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided, and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed three hundred three thousand, three hundred twenty-two dollars (\$303,322) annually including all expenses. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified

amount of services or products. Unless otherwise specifically stated in Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

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

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

County of Riverside Probation Department

Fiscal Unit Accounts Payable

P.O. Box 833

Riverside, CA 92502

or

Email: Acctspayable@rivco.org

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number PRARC-PSA-0003612; quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.

- b) Invoices shall be rendered monthly in arrears.

3.4 The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made,

and invoices shall be rendered "monthly" in arrears. In the State of California, government agencies are not allowed to pay excess interest and late charges, per Government Code 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, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

4.2 Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, 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. COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

5.2 COUNTY may, upon five (5) days written notice terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

5.3 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, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

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

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

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

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

6. Ownership/Use of Contract Materials and Products

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY. The material, reports or products may be used by the COUNTY for any purpose that the COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports, or products without prior written authorization of the COUNTY.

7. Conduct of Contractor

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in

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

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of 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.

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

8. Inspection of Service; Quality Control/Assurance

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

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

9. Independent Contractor/Employment Eligibility

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

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

9.3 Ineligible Person shall be any individual or entity who: Is currently excluded, suspended, debarred or otherwise ineligible to participate in the federal health care programs; or has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the federal health care programs after a period of exclusion, suspension, debarment, or ineligibility.

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

Individual an Ineligible Person. CONTRACTOR shall notify COUNTY within five (5) business days after it becomes aware if a Covered Individual providing services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an Ineligible Person.

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

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

10. Subcontract for Work or Services

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

11. Disputes

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

11.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation

session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

12. Licensing and Permits

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

13. Use By Other Political Entities

The CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

14. Non-Discrimination

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

15. Records and Documents

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

16. Confidentiality

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

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

16.3 The CONTRACTOR is subject to and shall operate in compliance with all relevant requirements contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, enacted August 21, 1996, and the related laws and regulations promulgated subsequent thereto. Please refer to Attachment 1 of this agreement.

17. 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.

18. Notices

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

COUNTY OF RIVERSIDE

Riverside County Probation Department
Probation Administration
P.O. Box 833
Riverside, CA 92502
Main Number: (951)955-2830

CONTRACTOR

RCOE Alternative Education
Division of Student Program & Services
3939 13th Street
Riverside, CA 92501
Main Number: (951) 826-6464

19. Force Majeure

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

20. EDD Reporting Requirements

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

21. Hold Harmless/Indemnification

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

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 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.

22. Insurance

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

A. Workers' Compensation:

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

B. Commercial General Liability:

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

C. Vehicle Liability:

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

D. Professional Liability

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

E. General Insurance Provisions - All lines:

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

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

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

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

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the 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. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

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

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

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

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

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

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

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

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

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

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

23.12 This Agreement, 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.

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: Karen S. Spiegel
Karen Spiegel, Chair
Board of Supervisors

Dated: DEC 14 2021

**RIVERSIDE COUNTY OFFICE OF
EDUCATION**

By: Dr. Edwin Gomez
Dr. Edwin Gomez
Riverside County Superintendent of Schools

Dated: 11/29/2021

ATTEST:

Kecia R. Harper
Clerk of the Board

By: [Signature]
Deputy

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: [Signature]
Lisa Sanchez
Deputy County Counsel

EXHIBIT A
SCOPE OF SERVICES

PURPOSE:

This Agreement is to define an operational plan for the Pathways to Success (PTS) program in accordance with Welfare & Institutions Code (WIC) section 875 to ensure youths (ages 14-25) enrolled in the program receive educational services that meet their individualized needs outlined in a customized case plan which includes Transitional Individual Learning Plans (TILPs), Section 504 Plans of the Rehabilitation Act of 1973 (Section 504), English Language Development (ELD) Plans, Individualized Educational Plan (IEPs) and post-secondary planning and preparation.

The CONTRACTOR and COUNTY acknowledge, per WIC section 852, the AMC YTEC facilities are under the management and control of the Chief Probation Officer of the County of Riverside. Each Facility Manager has the responsibility of their respective facility pursuant to WIC section 853. The agencies also acknowledge per WIC section 889 and Education Code section 48645 et seq., the Superintendent of the Schools of Riverside County and the CONTRACTOR are responsible for the administration and operation of public schools in any county juvenile detention facility or secure treatment setting.

SCOPE:

CONTRACTOR will provide services, as defined in the roles and responsibilities of this agreement, for probation youths as agreed upon by both parties.

AGENCY REPRESENTATIVES:

The following representatives will serve as the primary points of contact as it relates to accomplishing the terms of this Agreement.

CONTRACTOR: Charles Fischer, RCOE Alternative Education Executive Director
Jannette Price, RCOE Alternative Education Court School Principal

COUNTY: Chief Deputy Probation Officer of Institutions

ROLES AND RESPONSIBILITIES:

CONTRACTOR shall comply with California Code of Regulations (CCR), Title 15 – Minimum Standards for Juvenile Facilities, §1370 (Education Program).

A. School Programs

CONTRACTOR shall provide for the administration and operation of juvenile court schools in conjunction with the Chief Probation Officer of the County of Riverside, or designee, pursuant to applicable State laws. CONTRACTOR and COUNTY shall develop and implement written policy and procedures to ensure communication and coordination between CONTRACTOR and COUNTY staff. Culturally responsive and trauma-informed approaches should be applied when providing instruction. CONTRACTOR staff should collaborate with the COUNTY to use

technology to facilitate learning and ensure safe technology practices. The COUNTY shall request an annual review of each required element of the program by the Superintendent of Schools or designee, and a report or review checklist on compliance, deficiencies, and corrective actions needed to achieve compliance with this section. Such a review, when conducted, cannot be delegated to the principal or any other staff of any juvenile court school site. The Superintendent of Schools or designee shall conduct this review with a qualified outside agency or individual. Upon receipt of the review, the COUNTY or designee shall review each item with the Superintendent of Schools or designee and shall take whatever corrective action is necessary to address each deficiency and to fully protect the educational interests of all youths in the facility.

B. Required Elements

The facility school program shall comply with the State Education Code and Riverside County Board of Education policies, all applicable federal education statutes and regulations and provide for an annual evaluation of the educational program offerings. As stated in the 2009 California Standards for the Teaching Profession, CONTRACTOR's teachers shall establish and maintain learning environments that are physically, emotionally, and intellectually safe. Youth shall be provided a rigorous, quality educational program that responds to the different learning styles and abilities of students and prepares them for high school graduation, career entry, and post-secondary education. All youth shall be treated equally, and the education program shall be free from discriminatory action. Staff shall refer to transgender, intersex and gender-nonconforming youth by their preferred name and gender.

1. The course of study shall comply with the State Education Code and include, but not be limited to, courses required for high school graduation: English/Language Arts, Social Sciences, Physical Education, Science, Health, Mathematics, Fine Arts/Foreign Language, and Electives (including career education).
2. Information and preparation for the High School Equivalency Test (HiSET) as approved by the California Department of Education shall be made available when possible.
3. Youth shall be informed of post-secondary education and vocational opportunities.
4. Administration of the HiSETs as approved by the California Department of Education, shall be made available when possible.
5. Supplemental instruction shall be affordable to youths who do not demonstrate sufficient progress towards grade level standards.
6. The minimum school day shall be consistent with State Education Code Requirements for juvenile court schools. The COUNTY, in conjunction with CONTRACTOR staff, must ensure operational procedures do not interfere with the time afforded for the minimum instructional day. Absences, time out of class or educational instruction, both excused and unexcused, shall be documented.
7. Education shall be provided to all youths regardless of classification, housing, security status, disciplinary or separation status, including room confinement except when providing

education poses an immediate threat to the safety of self or others. Education includes, but is not limited to, related services as provided in a youth's Section 504 Plan or Individualized Education Program (IEP).

8. Graduation Requirements:

- a) Riverside County Court School is a Western Association of Schools and Colleges (WASC) accredited high school and all courses are based on the California State Academic Standards (Common Core State Standards).

Court School – High School Program:

Provide academic instructions for high school in all subject areas to meet the requirements for RCOE high school graduation (200 credits in required courses) or the California State minimum (130 credits in required courses) for students who are eligible under AB2306.

Desert Edge School – Adult Basic Education (ABE) and Adult Secondary Education (ASE):

Provide academic instructions for adult education diploma in all subject areas to meet the requirements for RCOE adult education diploma graduation (175 credits in required courses). Provide basic skills and secondary courses for high school equivalency test (GED or HiSET).

Assembly Bill (AB) 2306 (2016), provides it is the intent of the Legislature that pupils in juvenile court schools have a rigorous curriculum that includes a course of study preparing them for high school graduation, career entry and fulfilling the requirements for admission to the University of California and the California State University. AB 2306 further provides if a pupil meets statewide coursework requirements while attending a juvenile court school, the county office of education must issue to the pupil a diploma of graduation and cannot require the pupil to complete coursework or other requirements that are in addition to the statewide coursework requirements. If a pupil completes the statewide coursework requirements for graduation specified in California Education Code § 51225.3 while attending a juvenile court school, the county office of education shall issue to the pupil a diploma of graduation and shall not require the pupil to complete coursework or other requirements that are in addition to the statewide coursework requirements unless otherwise stated in a student's individual education plan (AB 2306 - Education Code § 48645.5(d)).

- b) AB 1124 requires the CONTRACTOR when a juvenile court school pupil becomes entitled to a diploma, to notify the pupil, the person holding the right to make educational decisions for the pupil, and the pupil's social worker or probation officer of specified information, including, among other things, the pupil's or the education rights holder's, as applicable, option to allow the pupil to defer or decline the diploma and take additional coursework. AB 1124 permits the pupil, upon agreement between the CONTRACTOR and the pupil or the person holding the right to make educational

decisions for the pupil, to take coursework or other requirements adopted by the governing board of the CONTRACTOR, and to defer the granting of the diploma until the pupil is released from the juvenile detention facility.

C. School Discipline

1. Positive behavior management will be implemented to reduce the need for disciplinary action in the school setting and be integrated into the facility's overall behavioral management plan and security system.
2. CONTRACTOR staff shall be advised of administrative decisions made by COUNTY staff that may affect the education programming of students. CONTRACTOR staff will be responsible for providing classroom management, which includes supervising the physical education program. COUNTY staff will be responsible throughout the school day for providing general security and ensure the safety of students and school staff.
3. Except as otherwise provided by the State Education Code expulsion/suspension from school shall be imposed only when other means of correction fails to bring about proper conduct. CONTRACTOR staff shall follow the appropriate due process safeguards as set forth in the State Education Code including the rights of students with special needs. CONTRACTOR staff shall document the other means of correction used prior to imposing expulsion/suspension if an expulsion/suspension is ultimately imposed. The principal of the school shall determine if a student will be suspended from school.
4. The COUNTY, in conjunction with CONTRACTOR staff, will develop policies and procedures that address the rights of any student who has continuing difficulty completing a school day.
5. Any removal from school for behavioral reasons shall be documented by CONTRACTOR staff. Copies of the documentation shall be provided to the Duty Officer prior to the end of the school day.

D. Provisions for Individuals with Special Needs

1. State and federal laws and regulations shall be observed for all individuals with disabilities or suspected disabilities. This includes but is not limited to special education child find, assessment, continuum of alternative placements, manifestation determination reviews, and implementation of Section 504 Plans and Individualized Education Program.
2. Youth identified as English Learners (EL) shall be afforded an educational program that addresses their language needs pursuant to all applicable state and federal laws and regulations governing programs for EL students.
3. Educational instruction shall be provided to youths restricted to high security or other special units.

E. Educational Screening and Admission

1. Youth shall be interviewed within 24-hours by CONTRACTOR staff after admittance and a written record prepared that documents a youth's educational history, including but not

limited to:

- a. School progress/school history;
 - b. Home Language Survey and English Language Proficiency Assessments for California (ELPAC) results to determine whether the youth is an EL or Fluent English Proficient (FEP) as defined by the Education Code;
 - c. Migrant status as defined by the Education Code;
 - d. Special needs, including special education and Section 504 Plan eligibility when appropriate; and
 - e. Behavior needs/issues.
2. Youth will be immediately enrolled in school. CONTRACTOR staff shall conduct an assessment to determine the youth's general academic functioning levels to enable placement in core curriculum courses.
 3. After admission to the facility, a preliminary education plan shall be developed by CONTRACTOR staff for each youth within five (5) school days.
 4. Upon enrollment the CONTRACTOR shall comply with the California Education Code and immediately request the youth's records from his/her prior school(s), including, but not limited to, transcripts, Individual Education Program (IEP), Section 504 Plan, ELPAC scores, immunization records, exit grades, and partial credits. Upon receipt of the transcripts, the youth's educational plan shall be reviewed with the youth and modified as needed. Youth should be informed of the credits they need to graduate. For students in special education, records must be received within 5 school days. If student records are not received, the Alternative Education/Special Education Administrator shall be notified on the next school day following the five (5) day window.

F. Educational Reporting

1. The complete facility educational record of the youth shall be forwarded to the next educational placement upon request in accordance with the State Education Code.
2. The Riverside County Superintendent of Schools shall provide appropriate credit (full or partial) for course work completed while in juvenile court school in accordance with the State Education Code.

G. Transition and Re-entry Planning

1. The Superintendent of Schools or designee and the Chief Probation Officer of the County of Riverside or designee, shall develop policies and procedures to meet the transition needs of youth, including the development of an education transition plan, in accordance with the State Education Code and in alignment with the Title 15, Minimum Standards for Juvenile Facilities, Section 1355.

H. Post-secondary Education Opportunities

1. The CONTRACTOR and COUNTY should, whenever possible, collaborate with local post-secondary providers to facilitate access to educational and vocational opportunities for youth that considers the use of technology to implement these programs.
- I. Classroom Maintenance
CONTRACTOR shall ensure adequate maintenance and repairs of CONTRACTOR owned equipment in the classrooms and other educational space.
- J. Outside Vendors
CONTRACTOR shall advise the Duty Officer whenever they desire to arrange for outside vendors or visitors to enter the grounds of a Probation Department facility. Access is subject to approval by the Facility Managers or designee. If approval is granted, COUNTY shall provide an escort and supervision.
- K. Prison Rape Elimination Act
CONTRACTOR shall comply with the requirements under the Prison Rape Elimination Act of 2003 by ensuring all CONTRACTOR employees who may have contact with youth in COUNTY facilities, have successfully passed a criminal background check.
 1. Consult with child abuse registry maintained by the state or locality in which the employee will be employed.
 2. Consult with COUNTY regarding current and potential new employees, who may have contact with youth in COUNTY's facilities, who have a substantiated or unsubstantiated allegation of sexual harassment.
 3. CONTRACTOR has a criminal background system in place to capture such information for all employees who may have contact with youth in COUNTY's facilities.
 4. Provide a live scan set of prints to COUNTY.

COUNTY shall:

- A. Be responsible for the safe order and operation of each COUNTY facility.
- B. Provide reasonable advance notice to CONTRACTOR staff of any changes in safety and security measures.
- C. Probation staff will ensure youth are afforded the time for minimum instruction.
- D. Provide CONTRACTOR staff with a list of students designated to attend school and encourage all students to attend school for a minimum of 240 minutes of daily instruction, unless properly excused.
- E. Notify CONTRACTOR staff of any student with identified special education and/or limited

English needs if that information is available at the time of intake.

- F. Provide a daily list to CONTRACTOR staff of students to be transferred between facilities and units.
- G. Provide adequate staff to supervise state mandated testing, IEPs, and assessments.
- H. Within its sole discretion, COUNTY may direct CONTRACTOR staff to vacate a Probation Department facility.
- I. On the authority of the Facility Managers or designee, COUNTY may deny CONTRACTOR staff access to a Probation Department facility. This action requires the immediate notification of executive personnel with CONTRACTOR and the Chief Deputy Probation Officer of Institutions.
- J. Ensure adequate cleaning, maintenance and repairs of classrooms and other educational space, for delivery of educational services.
- K. Upon approval by the Facility Managers or designee, in conjunction with CONTRACTOR staff, supervise outside vendors / visitors whose access to the facility has been requested by CONTRACTOR.

CONTRACTOR and COUNTY DATA EXCHANGE:

Share specified student data information between CONTRACTOR, COUNTY, and other school districts, to the extent permissible by law.

- A. Nightly Exchange of Data:
 - 1. FREQUENCY: COUNTY will send a nightly report to CONTRACTOR.
 - 2. DATA CRITERIA: The data sent will reflect all youth admitted, released, or transferred from each facility for that day.
 - 3. FIELDS: The report will contain the following fields:
 - a. Facility_Location,
 - b. Probation_Client_Number,
 - c. Client_Name,
 - d. Release_Type, and
 - e. Admit/Release/Transfer.
 - 4. DESTINATION: The file will be sent to CONTRACTOR's root directory to their ftp server; <ftp.rcoe.us> in csv format which can be opened in EXCEL.
 - 5. FILE NAME: The file name will be a combination of the word 'PROBATION' and the send date (For example: the October 23, 2013 file name would be PROBATION 10232013.csv).

6. FORMAT: .csv

B. Quarterly Exchange of Data:

1. FREQUENCY: CONTRACTOR will send to COUNTY on a quarterly basis a file to be compared with Probation's minor population for the purpose of matching services.
2. DATA CRITERIA: The following three criteria groups will be used for identification of individuals of the CONTRACTOR list and Probation youths:
 - a. First_Name, Last_Name, and Date_Of_Birth exact match,
 - b. First_Name and Date_Of_Birth exact match, and
 - c. Last_Name and Date_Of_Birth exact match.
3. FIELDS: CONTRACTOR will send a file to COUNTY containing the following data fields:
 - a. Aeries_Enrollment_ID,
 - b. Last_Name,
 - c. Middle_Name,
 - d. First_Name,
 - e. Date_Of_Birth,
 - f. Address_City,
 - g. School_Code,
 - h. School_Enter_Date,
 - i. School_Exit_Date,
 - j. Probation_Officer_Last_Name,
 - k. Probation_Officer_First_Name,
 - l. Probation_County,
 - m. Probation_Phone, and
 - n. Probation_Comments.
4. FIELDS: COUNTY will return the following to CONTRACTOR when data elements defined in Section II (B) match.
 - a. Aeries_Enrollment_ID,
 - b. Probation_Client_Number,
 - c. Last_Name,
 - d. First_Name,
 - e. Probation_Officer_Last_Name,
 - f. Probation_Officer_First_Name,
 - g. Probation_County,
 - h. Probation_Phone, and
 - i. Supervision_Type.
5. DESTINATION: The file will be sent to CONTRACTOR's root directory to their ftp server; <ftp.rcoc.us> in csv format which can be opened in EXCEL.

6. FILE NAME: Based on the three criteria in Section II (B), the follow files will be sent to CONTRACTOR in a .txt format.
 - a. Probation_Contractor_Extract_(DATE)_Match_First_Last_DOB.txt,
 - b. Probation_Contractor_Extract_(DATE)_Match_First_DOB_Unverified.txt, and
 - c. Probation_Contractor_Extract_(DATE)_Match_Last_DOB_Unverified.txt.
7. FORMAT: CONTRACTOR will send a .txt file to Probation. Probation will send a .txt file to CONTRACTOR.

ADMINISTRATION RESPONSIBILITIES AND OBLIGATIONS:

A. Facility Space

COUNTY will provide CONTRACTOR with space to provide educational services. This will include the provision for local telephone service, utilities, computer access, office space, and reasonable space for the storage of necessary supplies and educational records. Based on space availability, COUNTY may provide storage space for educational records of youths who are no longer in custody.

CONTRACTOR will consult and coordinate with COUNTY for staffing and space requirements needed for the implementation of educational programs prior to these programs being implemented. As facilities are remodeled or new ones are planned and constructed, COUNTY will consult with CONTRACTOR regarding the needs and requirements for educational services.

B. Materials, Supplies, Equipment, and Maintenance

CONTRACTOR is responsible for providing all supplies, materials, and technology/equipment required in the educational setting including computers/laptops/tables computers/laptops/tablets, interactive televisions, books, paper, pencils or any other items used to conduct normal classroom activities. CONTRACTOR staff will ensure that all items distributed to youth for educational purposes (e.g., pencils, markers, scissors, staplers etc.) are monitored, collected and inventoried at the conclusion of the class session. CONTRACTOR is responsible for general housekeeping to areas assigned. CONTRACTOR is responsible for maintenance replacement of telephones, furniture, computer equipment, and regular servicing required.

COUNTY is responsible for security and structural integrity of the buildings. COUNTY is responsible for general housekeeping of the classroom/facilities.

C. Training and Orientation

COUNTY will provide a "general" facility and security orientation for all new CONTRACTOR staff working in detention / treatment facilities, to include the expectations of CONTRACTOR staff for maintaining safety and security of the facility, youth, and staff.

D. Staff Meals

COUNTY shall make meals available to the CONTRACTOR staff working in detention/treatment facilities, in accordance with each facility's meal schedule and menu. Special meals or substitutions will not be offered to CONTRACTOR staff.

E. Grievances by Youths & Citizen Complaints

COUNTY shall handle all grievances made by youths involving educational services in accordance with Institutions Policy 956 – Grievance Procedure.

Whenever a complaint is received directly by CONTRACTOR regarding the care or treatment of a youth that involves one of their staff members, CONTRACTOR will immediately notify the Facility Manager(s). Any time COUNTY receives a complaint involving a CONTRACTOR employee, COUNTY will notify the staff member's administrator.

COUNTY will review complaints regarding educational services or against CONTRACTOR staff that appear to include the possibility of criminal charges. If it appears that a criminal matter has occurred, COUNTY will refer the matter to the appropriate law enforcement agency. CONTRACTOR will be consulted during the investigation, if it does not compromise the integrity of the investigation, and upon its completion.

Citizen complaints or complaints by youths received directly by CONTRACTOR regarding Probation personnel shall be forwarded to the Facility Manager(s) or designee(s) immediately.

F. Independent Capacity: Hiring and Management of CONTRACTOR Employees

CONTRACTOR has the authority and responsibility to recruit, hire, evaluate, discipline, and terminate their employees. CONTRACTOR employees will conform to standards of behavior (professional and security) as established by joint agreement between COUNTY and CONTRACTOR and within the guidelines and standards for employees as established by the County. The standards will include appropriate regard for security requirements contained in the Probation Department General Policy and Procedures, and professional conduct as established by COUNTY Probation Department and CONTRACTOR management. Disputes between COUNTY and CONTRACTOR regarding staff shall be brought to the attention of the Facility Manager(s) and CONTRACTOR Superintendent or designee for resolution. Each Party shall act in an independent capacity and not as an agent or employee of the other.

G. Inter-Agency Meeting Agreement

Facility Manager(s) and Site Administrator agree to meet monthly as part of an inter-agency meeting, including representatives from Riverside University Behavioral Health System – Correctional Health Services and Riverside University Health Systems-Behavioral Health. The purpose of the meeting is to discuss service provisions to the youth in facilities and to resolve

issues. COUNTY shall be responsible to maintain a roster, record the meeting minutes, and be responsible for the distribution of the minutes to the agency representatives.

- H. Any modification to the delivery of education program as detailed within this Agreement, as a result of COVID-19 or any other situation, will require the CONTRACTOR to provide written notice to COUNTY prior to the implementation of the modification so COUNTY can seek an Emergency Suspension of Standards from the Board of State and Community Corrections.

PERSONNEL DISCLOSURE AND BACKGROUND CHECK PROCEDURES

1. Background Check Procedures:

Upon request by Probation, RCOE agrees to make available to Probation a current list of all personnel that will be providing services under this MOU. This list shall include: all staff who work full-time, part-time, per-diem, or temporarily; a brief description of the functions of each position; and the professional degree, license (if applicable) and experience required for each position. In addition, Probation shall be provided immediate written notice of any changes in personnel providing services under this MOU.

Probation reserves the right to conduct, at any time, background checks on personnel assigned to a Probation facility. Based on the background check, Probation shall have the right to require replacement of any personnel providing services under this MOU.

In the event a background check is conducted, costs associated with the background check will be the responsibility of Probation.

2. Disclosure of Information Relevant to Client and Employee Safety:

As required by Penal Code Section 11105.3, RCOE agrees to notify Probation of any RCOE employee assigned to any DRC that has been convicted of any crimes involving sex, drugs, violence, or felony offense, or who are known to have a substantiated report of child abuse as defined in Penal Code Section 11165.12, who have supervisory or disciplinary power over probation clients at the program.

Notification procedures for client safety are as follows:

- Probation shall notify RCOE in writing of any person not approved to work at any Probation program, but to protect client confidentiality, may not be able to disclose the reason(s) for non-approval.
- Upon notification, RCOE shall immediately remove that person from providing services under this MOU.

Notification procedures for employee safety are as follows:

- When such information becomes known to RCOE, RCOE shall immediately notify Probation concerning any arrests or convictions for anything other than minor traffic offenses, notwithstanding Driving Under the Influence, or substantiated allegations of abuse by any paid employee.
- In the event that notification is made, Probation will make the necessary contractual changes up to and including termination of this MOU.
- Failure to notify Probation immediately of the above is grounds for termination of this MOU.

EXHIBIT B
PAYMENT PROVISIONS

RCOE Program FY 2021-2022 Budget for Pathways to Success Program

Description		Costs
One Specialized Academic Instruction Teacher (220-Days) to provide educational services for the high school age students and the adults.		\$192,540
High School Students-up to age 19	Adult Students - Ages 19 and older	
<u>Court School - High School Program</u> Provide academic instruction for high school in all subject areas to meet the requirements for RCOE high school graduation (200 credits in required courses) or the California State minimum (130 credits in required courses) for students who are eligible under AB2306.	<u>Desert Edge School - Adult Basic Education (ABE) and Adult Secondary Education (ASE):</u> Provide academic instruction for adult education diploma in all subject areas to meet the requirements for RCOE adult education diploma graduation (175 credits in required courses). Provide basic skills and secondary courses for high school equivalency test (GED or HiSET).	
Part-Time Equivalent CTE Teacher to provide career education in specialize area.		\$67,210
Counseling-Academic and Behavioral Health		\$6,000
Textbooks Instructional Materials		\$3,000
Equipment/Technology		\$12,000
Indirect Costs		\$22,572
Total FY 2021-2022		\$303,322

Attachment I

DEFINITIONS:

"Alternative Education Executive Director" means Executive Director employed by the Riverside County Office of Education to oversee the educational programs at all alternative education sites in Riverside County.

"Coordinator" means coordinator employed by the Riverside County Office of Education to coordinate the educational programs at all Court School sites in Riverside County.

"Facility Manager" means Division Director or other person in charge of the day-to-day operation of a facility which detains youths.

"English Language Development Plan (ELD)" is a Comprehensive Literacy and Oral Language Development Approach for English Language Acquisition.

"HIPAA", the Health Insurance Portability and Accountability Act, a US law designed to provide privacy standards to protect patients' medical records and other health information provided to health plans, doctors, hospitals and other health care providers. Developed by the Department of Health and Human Services, these new standards provide patients with access to their medical records and more control over how their personal health information is used and disclosed.

"Individualized Education Programs (IEPs)" IEP defines the individualized objectives of a child who has been found with a disability, as defined by federal regulations. The IEP is intended to help children access the curriculum being taught in the alternative education programs. In all cases the IEP must be tailored to the individual student's needs as identified by the IEP evaluation process.

"Transitional Individual Learning Plan (TILPs)" is a user (student) specific program or strategy of education or learning that takes into consideration the student's strengths and weaknesses.

"Prison Rape Elimination Act (PREA)" is a Federal law established to address the elimination and prevention of sexual assault and rape in correctional systems. PREA applies to all federal, state, and local prisons, jails, police lock-ups, private facilities, and community settings such as residential facilities.

"Title 15 CCR" means the Minimum Standards for Juvenile Facilities under California Code and Regulations, Title 15.

“Transition Plan” transition plan is the section of the Individualized Education Program (IEP) that outlines transition goals and services for the student. The transition plan is based on a high school student's individual needs, strengths, skills, and interests. Transition planning is used to identify and develop goals which need to be accomplished during the current school year to assist the student in meeting his post-high school goals.

“Aeries” is the Riverside County Office of Education’s student information data management system.

Attachment II

HIPAA Business Associate Agreement Addendum to Contract

Between the County of Riverside and Riverside County Office of Education

This HIPAA Business Associate Agreement (the "Addendum") supplements, and is made part of the Professional Service Agreement for PATHWAYS TO SUCCESS PROGRAM - EDUCATIONAL SERVICES (the "Underlying Agreement") between the County of Riverside ("County") and the Riverside County Office of Education ("Contractor") and shall be effective as of the date the Underlying Agreement approved by both Parties (the "Effective Date").

RECITALS

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

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

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

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

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

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

WHEREAS, the parties intend to enter into this Addendum to address the requirements and obligations set forth in the Privacy Rule, Security Rule, HITECH and HIPAA as they apply to Contractor as

a business associate of County, including the establishment of permitted and required uses and disclosures of PHI and/or ePHI created or received by Contractor during the course of performing functions, services and activities on behalf of County, and appropriate limitations and conditions on such uses and disclosures;

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

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HITECH, HIPAA, Security Rule and/or Privacy Rule, as may be amended from time to time.
 - A. "Breach" when used in connection with PHI means the acquisition, access, use or disclosure of PHI in a manner not permitted under subpart E of the Privacy Rule which compromises the security or privacy of the PHI, and shall have the meaning given such term in 45 CFR §164.402.
 - (1) Except as provided below in Paragraph (2) of this definition, acquisition, access, use, or disclosure of PHI in a manner not permitted by subpart E of the Privacy Rule is presumed to be a breach unless Contractor demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following four factors:
 - (a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
 - (b) The unauthorized person who used the PHI or to whom the disclosure was made;
 - (c) Whether the PHI was actually acquired or viewed; and
 - (d) The extent to which the risk to the PHI has been mitigated.
 - (2) Breach excludes:
 - (a) Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under subpart E of the Privacy Rule.
 - (b) Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or business associate to another person authorized to access PHI at the same covered entity, business associate, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted by subpart E of the Privacy Rule.
 - (c) A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

- B. "Business associate" has the meaning given such term in 45 CFR §164.501, including but not limited to a subcontractor that creates, receives, maintains, transmits or accesses PHI on behalf of the business associate.
- C. "Data aggregation" has the meaning given such term in 45 CFR §164.501.
- D. "Designated record set" as defined in 45 CFR §164.501 means a group of records maintained by or for a covered entity that may include: the medical records and billing records about individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or, used, in whole or in part, by or for the covered entity to make decisions about individuals.
- E. "Electronic protected health information" ("ePHI") as defined in 45 CFR §160.103 means protected health information transmitted by or maintained in electronic media.
- F. "Electronic health record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given such term in 42 USC §17921(5).
- G. "Health care operations" has the meaning given such term in 45 CFR §164.501.
- H. "Individual" as defined in 45 CFR §160.103 means the person who is the subject of protected health information.
- I. "Person" as defined in 45 CFR §160.103 means a natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private.
- J. "Privacy Rule" means the HIPAA regulations codified at 45 CFR Parts 160 and 164, Subparts A and E.
- K. "Protected health information" ("PHI") has the meaning given such term in 45 CFR §160.103, which includes ePHI.
- L. "Required by law" has the meaning given such term in 45 CFR §164.103.
- M. "Secretary" means the Secretary of the U.S. Department of Health and Human Services ("HHS").
- N. "Security incident" as defined in 45 CFR §164.304 means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- O. "Security Rule" means the HIPAA Regulations codified at 45 CFR Parts 160 and 164, Subparts A and C.
- P. "Subcontractor" as defined in 45 CFR §160.103 means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.

- Q. "Unsecured protected health information" and "unsecured PHI" as defined in 45 CFR §164.402 means PHI not rendered unusable, unreadable, or indecipherable to unauthorized persons through use of a technology or methodology specified by the Secretary in the guidance issued under 42 USC §17932(h)(2).

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

- A. Except as otherwise provided in this Addendum, Contractor may use, disclose, or access PHI and/or ePHI as necessary to perform any and all obligations of Contractor under the Underlying Agreement or to perform functions, activities or services for, or on behalf of, County as specified in this Addendum, if such use or disclosure does not violate HIPAA, HITECH, the Privacy Rule and/or Security Rule.
- B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Addendum or required by law, in accordance with 45 CFR §164.504(e)(2), Contractor may:
- 1) Use PHI and/or ePHI if necessary for Contractor's proper management and administration and to carry out its legal responsibilities; and,
 - 2) Disclose PHI and/or ePHI for the purpose of Contractor's proper management and administration or to carry out its legal responsibilities, only if:
 - a) The disclosure is required by law; or,
 - b) Contractor obtains reasonable assurances, in writing, from the person to whom Contractor will disclose such PHI and/or ePHI that the person will:
 - i. Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person, or as required by law; and,
 - ii. Notify County of any instances of which it becomes aware in which the confidentiality of the information has been breached; and,
 - 3) Use PHI to provide data aggregation services relating to the health care operations of County pursuant to the Underlying Agreement or as requested by County; and,
 - 4) De-identify all PHI and/or ePHI of County received by Contractor under this Addendum provided that the de-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.
- C. Notwithstanding the foregoing, in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA, including, but not limited to, prohibiting disclosure of mental health and/or substance abuse records, the applicable state and/or federal laws and/or regulations shall control the disclosure of records.

3. **Prohibited Uses and Disclosures.**

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

4. **Obligations of County.**

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

- C. County agrees to make its best efforts to promptly notify Contractor in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect Contractor's use or disclosure of PHI and/or ePHI.
 - D. County agrees not to request Contractor to use or disclose PHI and/or ePHI in any manner that would not be permissible under HITECH, HIPAA, the Privacy Rule, and/or Security Rule.
 - E. County agrees to obtain any authorizations necessary for the use or disclosure of PHI and/or ePHI, so that Contractor can perform its obligations under this Addendum and/or Underlying Agreement.
5. **Obligations of Contractor.** In connection with the use or disclosure of PHI and/or ePHI, Contractor agrees to:
- A. Use or disclose PHI only if such use or disclosure complies with each applicable requirement of 45 CFR §164.504(e). Contractor shall also comply with the additional privacy requirements that are applicable to covered entities in HITECH, as may be amended from time to time.
 - B. Not use or further disclose PHI and/or ePHI other than as permitted or required by this Addendum or as required by law. Contractor shall promptly notify County if Contractor is required by law to disclose PHI and/or ePHI.
 - C. Use appropriate safeguards and comply, where applicable, with the Security Rule with respect to ePHI, to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Addendum.
 - D. Mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI and/or ePHI by Contractor in violation of this Addendum.
 - E. Report to County any use or disclosure of PHI and/or ePHI not provided for by this Addendum or otherwise in violation of HITECH, HIPAA, the Privacy Rule, and/or Security Rule of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410.
 - F. In accordance with 45 CFR §164.502(e)(1)(ii), require that any subcontractors that create, receive, maintain, transmit or access PHI on behalf of the Contractor agree through contract to the same restrictions and conditions that apply to Contractor with respect to such PHI and/or ePHI, including the restrictions and conditions pursuant to this Addendum.
 - G. Make available to County or the Secretary, in the time and manner designated by County or Secretary, Contractor's internal practices, books and records relating to the use, disclosure and privacy protection of PHI received from County, or created or received by Contractor on behalf of County, for purposes of determining, investigating or auditing Contractor's and/or County's compliance with the Privacy Rule.
 - H. Request, use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of the request, use or disclosure in accordance with 42 USC §17935(b) and 45 CFR §164.502(b)(1).

- I. Comply with requirements of satisfactory assurances under 45 CFR §164.512 relating to notice or qualified protective order in response to a third party's subpoena, discovery request, or other lawful process for the disclosure of PHI, which Contractor shall promptly notify County upon Contractor's receipt of such request from a third party.
- J. Not require an individual to provide patient authorization for use or disclosure of PHI as a condition for treatment, payment, enrollment in any health plan (including the health plan administered by County), or eligibility of benefits, unless otherwise excepted under 45 CFR §164.508(b)(4) and authorized in writing by County.
- K. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use, disclosure, or access of PHI and/or ePHI.
- L. Obtain and maintain knowledge of applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.
- M. Comply with the requirements of the Privacy Rule that apply to the County to the extent Contractor is to carry out County's obligations under the Privacy Rule.
- N. Take reasonable steps to cure or end any pattern of activity or practice of its subcontractor of which Contractor becomes aware that constitute a material breach or violation of the subcontractor's obligations under the business associate contract with Contractor, and if such steps are unsuccessful, Contractor agrees to terminate its contract with the subcontractor if feasible.

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

- A. **Access to PHI, including ePHI.** Provide access to PHI, including ePHI if maintained electronically, in a designated record set to County or an individual as directed by County, within five (5) days of request from County, to satisfy the requirements of 45 CFR §164.524.
- B. **Amendment of PHI.** Make PHI available for amendment and incorporate amendments to PHI in a designated record set County directs or agrees to at the request of an individual, within fifteen (15) days of receiving a written request from County, in accordance with 45 CFR §164.526.
- C. **Accounting of disclosures of PHI and electronic health record.** Assist County to fulfill its obligations to provide accounting of disclosures of PHI under 45 CFR §164.528 and, where applicable, electronic health records under 42 USC §17935(c) if Contractor uses or maintains electronic health records. Contractor shall:
 - 1) Document such disclosures of PHI and/or electronic health records, and information related to such disclosures, as would be required for County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record in accordance with 45 CFR §164.528.
 - 2) Within fifteen (15) days of receiving a written request from County, provide to County or any individual as directed by County information collected in accordance with this section to

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

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

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

- A. 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;
- B. 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;
- C. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;
- D. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or required under the Privacy Rule;
- E. Ensure compliance with the Security Rule by Contractor's workforce;
- F. 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;
- G. Report to County any security incident of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410; and,
- H. Comply with any additional security requirements that are applicable to covered entities in Title 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time, including but not limited to HITECH.

8. **Breach of Unsecured PHI.** In the case of breach of unsecured PHI, Contractor shall comply with the applicable provisions of 42 USC §17932 and 45 CFR Part 164, Subpart D, including but not limited to 45 CFR §164.410.

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

- 1) **Breaches treated as discovered.** A breach is treated as discovered by Contractor as of the first day on which such breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor, which includes any person, other than the person committing the breach, who is an employee, officer, or other agent of Contractor (determined in accordance with the federal common law of agency).
- 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.** 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 pay any and all 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 two (2) business days after Contractor detects such incident. Contractor further agrees such report shall be made in writing, and shall include substantially the same types of information listed above in Section 8.A.2 (Content of Notification) as applicable to the unlawful or unauthorized access, use, or disclosure as defined above in this section, understanding and acknowledging that the term "breach" as used in Section 8.A.2 does not apply to California Health & Safety Code §1280.15.

9. **Hold Harmless/Indemnification.**

- A. Contractor agrees to indemnify and hold harmless County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of Contractor, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Addendum, including but not limited to property damage, bodily injury, death, or any other element of any kind or nature whatsoever arising from the performance of Contractor, its officers, agents, employees, subcontractors, agents or representatives from this Addendum. Contractor shall defend, at its sole expense, all costs and fees, including but not limited to attorney fees, cost of investigation, defense and settlements or awards, of County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors,

elected and appointed officials, employees, agents or representatives in any claim or action based upon such alleged acts or omissions.

- B. With respect to any action or claim subject to indemnification herein by Contractor, Contractor shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Contractor's indemnification to County as set forth herein. Contractor's obligation to defend, indemnify and hold harmless County shall be subject to County having given Contractor written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Contractor's expense, for the defense or settlement thereof. Contractor's obligation hereunder shall be satisfied when Contractor has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.
 - C. The specified insurance limits required in the Underlying Agreement of this Addendum shall in no way limit or circumscribe Contractor's obligations to indemnify and hold harmless County herein from third party claims arising from issues of this Addendum.
 - D. In the event there is conflict between this clause and California Civil Code §2782, this clause shall be interpreted to comply with Civil Code §2782. Such interpretation shall not relieve the Contractor from indemnifying County to the fullest extent allowed by law.
 - E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Addendum, this indemnification shall only apply to the subject issues included within this Addendum.
10. **Term.** This Addendum shall commence upon the Effective Date and shall terminate when all PHI and/or ePHI provided by County to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy PHI and/ePHI, protections are extended to such information, in accordance with section 11.B of this Addendum.
11. **Termination.**
- A. **Termination for Breach of Contract.** A breach of any provision of this Addendum by either party shall constitute a material breach of the Underlying Agreement and will provide grounds for terminating this Addendum and the Underlying Agreement with or without an opportunity to cure the breach, notwithstanding any provision in the Underlying Agreement to the contrary. Either party, upon written notice to the other party describing the breach, may take any of the following actions:
 - 1) Terminate the Underlying Agreement and this Addendum, effective immediately, if the other party breaches a material provision of this Addendum.
 - 2) Provide the other party with an opportunity to cure the alleged material breach and in the event the other party fails to cure the breach to the satisfaction of the non-breaching party in a timely manner, the non-breaching party has the right to immediately terminate the Underlying Agreement and this Addendum.

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

B. Effect of Termination.

- 1) Upon termination of this Addendum, for any reason, Contractor shall return or, if agreed to in writing by County, destroy all PHI and/or ePHI received from County, or created or received by the Contractor on behalf of County, and, in the event of destruction, Contractor shall certify such destruction, in writing, to County. This provision shall apply to all PHI and/or ePHI which are in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of PHI and/or ePHI, except as provided below in paragraph (2) of this section.
- 2) In the event that Contractor determines that returning or destroying the PHI and/or ePHI is not feasible, Contractor shall provide written notification to County of the conditions that make such return or destruction not feasible. Upon determination by Contractor that return or destruction of PHI and/or ePHI is not feasible, Contractor shall extend the protections of this Addendum to such PHI and/or ePHI and limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as Contractor maintains such PHI and/or ePHI.

12. General Provisions.

- A. **Retention Period.** Whenever Contractor is required to document or maintain documentation pursuant to the terms of this Addendum, Contractor shall retain such documentation for 6 years from the date of its creation or as otherwise prescribed by law, whichever is later.
- B. **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for County to comply with HITECH, the Privacy Rule, Security Rule, and HIPAA generally.
- C. **Survival.** The obligations of Contractor under Sections 3, 5, 6, 7, 8, 9, 11.B and 12.A of this Addendum shall survive the termination or expiration of this Addendum.
- D. **Regulatory and Statutory References.** A reference in this Addendum to a section in HITECH, HIPAA, the Privacy Rule and/or Security Rule means the section(s) as in effect or as amended.
- E. **Conflicts.** The provisions of this Addendum shall prevail over any provisions in the Underlying Agreement that conflict or appear inconsistent with any provision in this Addendum.
- F. **Interpretation of Addendum.**
 - 1) This Addendum shall be construed to be part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of the Privacy Rule, Security Rule, HIPAA and HITECH.
 - 2) Any ambiguity between this Addendum and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, Security Rule, HIPAA and HITECH generally.

G. Notices to County. All notifications required to be given by Contractor to County pursuant to the terms of this Addendum shall be made in writing and delivered to the County both by fax and to both of the addresses listed below by either registered or certified mail return receipt requested or guaranteed overnight mail with tracing capability, or at such other address as County may hereafter designate. All notices to County provided by Contractor pursuant to this Section shall be deemed given or made when received by County.

County HIPAA Privacy Officer: HIPAA Privacy Manager

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

County HIPAA Privacy Officer Phone Number: (951) 486-6471