County of Santa Cruz

HEALTH SERVICES AGENCY

P.O. BOX 962,1080 EMELINE AVENUE
SANTA CRUZ, CA 95061
(831) 454-4000 FAX: (831) 454-4770

HEALTH SERVICES AGENCY
ADMINISTRATION

May 11,2005 **AGENDA: June 14,2005**

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: Approval of Diamond Pharmacy Agreement for Detention Health Services

Dear Members of the Board:

Background:

The Health Services Agency (HSA) requests your Board's approval of the attached agreement for pharmacy services with Diamond Pharmacy Services for Santa Cruz County detention facilities including the Main Jail, Juvenile Hall and Roundtree. This action is one of many recommended to reduce costs in the detention health services budget and to improve utilization of nursing staff time. The recommendation to move to a specialized detention pharmacy vendor was made by the detention consultant in August 2004 and previously reported to your Board in September 2004 and January 2005. The primary advantages of this type of service are reduced rates, ability to return unused medication for credit, 24 hour 7 day per week service to all sites, and unit dosing systems which save nursing staff time.

Diamond Pharmacy Services specializes in servicing jails, prisons, juvenile facilities, detention centers and nursing facilities. This vendor provides 100% institutional pharmacy services with over 90% of its patient population being inmates and the balance being nursing facility residents. Diamond is the largest correctional pharmacy provider servicing over 300,000 inmates in over 500 facilities in 39 states.

Diamond will provide our facilities a complete and extensive pharmacy services program with comprehensive pharmaceutical services for all prescription and non-prescription medications as ordered by the healthcare providers and dentists. Only approved medications, biologicals and other related items shall be sent to the detention facilities. All medications will be dispensed and labeled inmate specific in compliance with current local, state, federal and department laws, regulations and provisions. This will include systems to oversee a strong formulary management program to reduce costs. The current outpatient clinic pharmacy staff pattern will not be effected by this change, as detention constitutes less than 10% of the volume of medications dispensed.

Currently medications are sent in bulk form without patient specific labeling to the main jail complex and juvenile facility. It is extremely difficult and expensive for County staff to continue in the current practice. Also, current turnaround time to receive medication from the pharmacy is 2-3 day which delays medical care and transfer between facilities. No credit is available for any unused medication from bulk sources. Current law requires unused medications be discarded.

Diamond proposes to provide the prescription and non-prescription medications to the County of Santa Cruz Detention facilities for the Average Wholesale Price less 14% and credit for all unused medications on full or partially used prescriptions at 100% of the amount billed less a $2.95 processing fee. The new program will be fully operational July 1. In order to be ready by July 1, new computer software for ordering will need to be set up, staff must be trained, and the pharmacy storage in each facility will need to be reorganized. Given these required tasks, it appeared appropriate to get the contract in place prior to the new fiscal year.

Appropriations of $318,000 for this agreement have been included in HSA's proposed budget for 2005-06 and no new county general funds will be needed to implement this service.

It is, therefore, RECOMMENDED that your Board:

Approve the attached agreement with Diamond Pharmacy Services, a new agreement for detention pharmacy services and authorize the Health Services agency Director to sign.

Sincerely,

Rama Khalsa, Ph.D.,
Health Services Agency Director

RECOMMENDED:

Susan A. Mauriello
County Administrative Officer

RK:GK

Attachments: contract, ADM-29

CC: County Administrative Officer
Auditor Controller
County Counsel
Health Services Administration
Sheriffs Department

0093

COUNTY OF SANTA CRUZ
REQUEST FOR APPROVAL OF AGREEMENT

TO. Board of Supervisors
County Administrative Office
Auditor Controller

FROM: Health Services Agency (Department)

BY: [signature] (Signature) 5/26/05 (Date)
Signature certifies that appropriations/revenues are available

AGREEMENT TYPE (Check One) Expenditure Agreement ☐ Revenue Agreement ☐

The Board of Supervisors is hereby requested to approve the attached agreement and authorize the execution of same.

1. Said agreement is between the **Health Services Agency - Detention Medical** (Department/Agency)

and **Diamond Pharmacy Services, 645 Kolter Dr., Indiana, PA 15701-3570** (Name/Address)

2. The agreement will provide **pharmacy services for detention facilities, including the Main Jail, Juvenile Hall, Roundtree**

3. Period of the agreement is from **July 1, 2005** to **June 30,2007**

4. Anticipated Cost Is $ **318,000 per year** ☐ Fixed ☐ Monthly Rate ☐ Annual Rate ☐ Not to Exceed

Remarks:

5. Detail: ☐ On Continuing Agreements List for FY - Page CC- Contract, No: OR ☒ 1st Time Agreement
☐ Section II No Board letter required, will be listed under Item 8
☐ Section III Board letter required
☐ Section IV Revenue Agreement

6. Appropriations/Revenues are available and are budgeted in **366110** (Index) **3436** (Sub object)

NOTE: IF APPROPRIATIONS ARE INSUFFICIENT, ATTACHED COMPLETED AUD-74 OR AUD-60

Appropriations are / are not available and have been / will be encumbered.
Subject to budget approval

Contract No: CO5 3373
By: Renee Hanson Date: 5/27/05
Auditor-Controller Deputy

Proposal and accounting detail reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize

Health Services Agency Director (Dept/Agency Head) to execute on behalf of the

Health Services Agency (Department/Agency)

Date: 6/6/05

By: [signature]
County Administrative Office

Distribution:
Board of Supervisors - White
Auditor Controller - Canary
Auditor-Controller - Pink
Department - Gold

State of California
County of Santa Cruz
I _____ ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing request for approval of agreement was approved by said Board of Supervisors as recommended by the County Administrative Office by an order duly entered in the minutes of said Board on _____ 20___

ADM - 29 (8/01)
Title I, Section 300 Proc Man

By: Deputy Clerk

AUDITOR-CONTROLLER USE ONLY

CO_____ $_____
Document No. JE Amount Lines H/TL Keyed By Date

TC110_____ $_____ / _____
Auditor Description Amount Index Sub object User Code

25

Contract No.

0094

COUNTY

The COUNTY OF SANTA CRUZ through the
HEALTH SERVICES AGENCY- Detention Medical Services
1080 Emeline Avenue, P.O. Box 962, Santa Cruz, CA 95061-0962

Hereinafter called COUNTY and:

CONTRACTOR

Name: DIAMOND PHARMACY SERVICES
Address: 645 Kolter Drive
Commerce Park, Indiana, PA 15701-3570

Hereinafter called CONTRACTOR for: professional comprehensive pharmacy services for the County's Detention Facilities.

WHEREAS CONTRACTOR possesses certain skills, experience, education and competency to perform the special services and, COUNTY desires to engage CONTRACTOR for such special services upon the terms provided; and

WHEREAS pursuant to the provisions of California Government Code, Section 31000 the BOARD OF SUPERVISORS of COUNTY is authorized to enter into an agreement for such services.

NOW, THEREFORE, the parties here to do mutually agree as set forth in

EXHIBITS

CHECK BOX IF ATTACHED	EXHIBIT	
☒	A	Scope of Services
☒	B	Budget, Fiscal and Payment Provisions
☐	C	Standard County / Agency Provisions
☐	D	Standard (Division) Provisions
☐	E	Mental Health Medi-Cal, Medicare Requirements
☒	H2	Business Services Addendum
17	X	Revisions

Said exhibits attached hereto are incorporated into this Agreement by this reference.

SIGNATURES

IN WITNESS THEREOF, COUNTY AND CONTRACTOR have executed this Agreement to be effective:
July 1, 2005 through June 30, 2007

CONTRACTOR

MARK J. ZILNER
DIRECTOR of OPERATIONS

COUNTY

HEALTH SERVICES AGENCY

APPROVED AS TO:

Approved as to Form:
County Counsel

Approved as to Insurances:
Risk Management Division 5-25-05

Suffix: 01
Index: ~~366100~~ 366110
Subobject: ~~3665~~ 3436
User Code:
Amount:

Total Contract Amount: $318,000 per year

Clerk of the Board
Auditor-Controller

Health Services Agency
Contractor

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EXHIBIT A

SCOPE OF SERVICES

1. Pharmaceutical Services

CONTRACTOR shall provide professional comprehensive pharmaceutical services for all prescription and non-prescription items required at COUNTY detention facilities. Such items include, but are not limited to, medications for topical, oral, and injectable use, inhalers, suppositories, and AIDS Drug Assistance (ADAP) medications. Generic substitutions and/or brand name medications, whichever are most cost effective, will be provided when available and approved by COUNTY physicians. Only approved drugs, biologicals, and other related items will be sent to the facilities. All medications will be labeled inmate specific as described in Paragraph 5(D) below and dispensed in full compliance with all current and future local, state, and federal laws, regulations, provisions, and court orders. Prescription will be dispensed and sent in only the amount prescribed by the physicians. CONTRACTOR will also provide consultant pharmacists who are available to COUNTY continuously for emergency and routine consultations twenty-four (24) hours a day, seven **(7)** days a week.

2. Supplies and Equipment

A. Medication Carts

CONTRACTOR shall provide brand new lockable medication carts at the following COUNTY sites and in the following numbers: Main Jail – 2 carts; Juvenile Hall – 1 cart; Rountree Facility – 2 carts; Blaine Street Facility – 1 cart. Carts will be meet all relevant state and federal standard for such equipment, including double locked storage areas for narcotics, and will be of a design and by a manufacturer acceptable to COUNTY. CONTRACTOR will also provide trays, storage supplies, dispensing equipment, packaging compartments, and related materials for the efficient storage and administration of medication for each COUNTY site.

B. Fax Machines

CONTRACTOR shall furnish a brand new plain paper facsimile machine at the following COUNTY sites: Main Jail, Juvenile Hall, and Rountree Facility. CONTRACTOR agrees to provide replacement fax machines at these sites as necessary at no cost to COUNTY.

3. Prescription Monitoring Services

Prior to filling prescription orders, CONTRACTOR'S clinical pharmacists shall screen each inmate's complete computerized medication profile to ensure safe and therapeutic medication administration. CONTRACTOR shall screen for:

- Duplicate therapy
- Drug interactions
- Excessive/sub-therapeutic dosages
- A summary of all new and changed orders
- Inmate drug allergies
- Medications what are being reorder too soon
- Medications ordered past the designated cut date
- Overall prescription order accuracy

CONTRACTOR shall alert COUNTY Detention Medical staff via phone or fax of such occurrences prior to shipping the order.

4. Formulary Implementation and Management

CONTRACTOR shall utilize the existing COUNTY Detention Medical Services formulary and shall work in conjunction with the COUNTY'S medical and mental health staff and the Pharmacy and Therapeutics Committee to evaluate additions or deletions of medications. CONTRACTOR will provide monthly medication usage accompanied with graphs, cost comparisons, and drug indication for particular drug classes. The formulary will be reviewed and updated on a quarterly basis.

COUNTY Physicians will fill out a non-formulary form prior to ordering a non-formulary prescription. If a non-formulary medication is ordered without a form, CONTRACTOR will fax an alert to the physician requesting that a non-formulary form be completed or that the order be changed to a formulary medication. If the form is still not received, CONTRACTOR will send a limited supply of the order so that the patient will not be without medication. CONTRACTOR will review non-formulary medication usage with COUNTY'S Medical Director and Chief of Detention Medical Services.

5. Ordering, Delivery and Dispensing Medications

A. Ordering

COUNTY may place orders by phone or fax via CONTRACTOR'S toll-free number. CONTRATOR agrees to provide the following: fax machines as specified in Paragraph 2 above; daily drug order sheets necessary for transmitting new order, reorders, changes, stop order, or discontinued orders; double peel-off labels for reordering, and any other supplies and materials required for ordering medications. CONTRACTOR also agrees to designate a pharmacy technician at CONTRACTOR'S location dedicated to processing COUNTY'S orders.

B. Delivery

All orders received by 2:00 p.m. Pacific Time will be delivered by no later than 10:30 a.m. next day, six (6) days a week, Monday through Saturday. Sunday deliveries will be provided at no additional fee through pre-arranged contracts with a back-up pharmacy or pharmacies designated by COUNTY. Emergency deliveries will be provided twenty-four (24) hours a day, seven (7) days a week at no additional fee via the back-up pharmacy or pharmacies. CONTRACTOR will coordinate the delivery of Sunday and emergency orders with the COUNTY-designated back-up pharmacy, which will deliver the medication directly to the appropriate COUNTY site.

Each medication shipment will contain detailed itemized packaging slips as a method of checking all items and cost accrued for each medication order/designated billing period. Reports will be sorted in the format required by COUNTY and will include, but are not limited to:

- Medication Delivery Report – printed alphabetically by inmate and containing inmate's name and number, date, medication name, strength, number of doses, prescription number, and stop date.

- Scheduled Items Report – containing all above information exclusively printed for controlled substances.

- Billing Report – containing all above information in addition to drug NDC number and price.

- Tracking – all next day air packages are tracked daily to ensure timely and accurate delivery.

C. Medication Distribution System

In conjunction with COUNTY Detention Medical Services staff, CONTRACTOR will provide and implement a specialized dispensing and delivery system for each COUNTY site that will meet the COUNTY'S need for safe, efficient, accountable, feasible, and cost-effective medication distribution. Prescription and non-prescription medications will be dispensed in unit-dose, patient specific, tamper-proof blister cards. Certain designated medications will be dispensed to comply with COUNTY'S self-medication program. Controlled substances will be dispensed in unique packaging.

D. Labeling

Each prescription will be labeled individually, with the patient's name and identification number, medication name and strength, generic interchange information, quantity dispensed, manufacturer's name, lot number, expiration date, route and times of administration, directions, inmate location, prescription number, prescriber name, dispense date, cut date, pharmacist's initials, an refills (if any) in accordance with all federal, state, and local laws and regulations.

Auxiliary labels describing reactions, cautions, warnings, interactions, etc. will be placed on each prescription for safe and effective medication use.

E. Starter Packs (on-site stat doses)

CONTRACTOR will provide starter packs of certain medications needed to begin therapy for immediate administration until a patient-specific prescription is received. Medications and stock quantities for starter doses will be determined in conjunction with COUNTY. An accountability sheet will accompany each starter pack. The completed accountability sheet may be returned to CONTRACTOR (for reconciliation of doses) when stock is depleted. The medication, however, may be reordered when needed by faxing the peel-off reorder label to CONTRACTOR.

F. Emergency Medication Kits

The emergency medication kit will contain only those medications that require immediate administration in order to alleviate pain, infection, modify dangerous behavior, or to preserve a life. Drugs and stock quantities will be determined in conjunction with COUNTY. All contents will be listed on the sealed kit. CONTRACTOR will inventory the kit quarterly, or as required by COUNTY. Emergency medications not included in either the emergency medication kit or the starter packs will be delivered to COUNTY facilities by the designated back-up pharmacy.

6. Documentation and Accountability

CONTRACTOR will maintain all appropriate documentation including, but not limited to, inventory records, controlled drug perpetual inventory, patient profiles, copies of all prescriptions, etc. All documentation shall be open for review by appropriate COUNTY staff or appointed designee. CONTRACTOR will provide and implement a record keeping system for drug accountability at COUNTY sites.

CONTRACTOR will maintain extensive patient profiles and provide an accurate pre-printed Medical Administration Record (MAR) once a month for each inmate receiving medication, if requested. The MAR will contain inmate's name, allergies, diagnosis, physician's name, and current medication list wit directions.

7. Protocols, Policies and Procedures

CONTRACTOR will assist in developing, implementing, updating, and monitoring of policies and procedures for safe and effective distribution, control, and use of drugs. CONTRACTOR will provide COUNTY with a policy and procedure manual, updated quarterly.

8. In-service Trainina and Continuinu Education

CONTRACTOR will provide customized in-service training on a variety of topics as mutually agreed upon by COUNTY and CONTRACTOR. The in-service trainings will include at a minimum: information regarding adverse reaction, drug interactions, basic review of the formulary, new and/or revised pharmacy laws, new medications, medication pass, medication accountability.

CONTRACTOR will make available its health care video library on various medical-related topics to COUNTY at no charge. CONTRACTOR will also provide COUNTY with a monthly newsletter highlighting new drug information, medical terminology review, metric equivalents, adverse drug reactions, research news on medications, news briefs on patient care, and related items.

9. Utilization Data

CONTRACTOR will provide any requested computer generated reports and utilization data. All reports can be sorted in order or groupings, including by prescribing physician. Available reports include, but are not limited to, the following:

- Detailed inmate profiles
- Patient drug allergy and drug interaction alert
- Monthly drug usage per inmate
- Drug utilization report
- Continual narcotic controlled substances inventory
- Monthly psychotropic usage report
- Computerized Medical Administration Record (MAR), delivered to COUNTY five (5) days before the end of the calendar month
- List of inmates taking medications that are known to produce adverse side effects when they are exposed to high temperatures or the sun
- Total doses dispensed per inmate
- Percentage of inmates on medications
- Percentage of inmates on psychotropics
- Formulary vs. non-formulary medications dispensed
- Number of prescriptions per inmate
- High to low usage by dollar amount
- High to low usage by quantity dispensed
- Medication breakdown listed by specific physician
- Medication classification report
- Cost containment recommendation report
- Side-effect and drug interaction report
- Stop date report
- Invoices containing drug name, NDC, and AWP
- Numerous customized management/cost containment reports

10. Pharmacv and Therapeutics Committee

CONTRACTOR will serve as a member (and chair, if requested) of the Detention Medical Services Pharmacy and Therapeutics Committee. CONTRACTOR will provide minutes for the Committee within 15 days of the meeting. CONTRACTOR will also be available to provide consultation to the prescribing physicians and nurses in relation to pharmaceutical therapy.

11. Quarterly Inspections

CONTRACTOR will provide on site inspections by a registered consultant pharmacist at COUNTY sites on a quarterly basis or as required. During these quarterly visits, CONTRACTOR will:

A. Assist in developing, implementing monitoring, and updating COUNTY'S policies, procedures, and protocols for the safe, effective distribution, control, administration and use of medications complying with all regulations of the COUNTY site.

B. Ensure the site complies with all applicable state and federal regulations regarding procuring, dispensing, and administering pharmaceuticals.

C. Set-up a system to ensure that all pharmaceuticals are tracked and recorded to show accountability.

D. Provide routing inspections to ensure that the site complies with all current pharmacy regulations.

E. Conduct an overall inspection of the medications room at the site.

F. Inspect the contents of the emergency medication kit and poison antidote kit and replace any outdated and/or deteriorated items.

G. Ensure compliance with all federal, state, and local laws and regulations regarding the guidelines of the COUNTY'S Detention Medical Services, Controlled Substances Act, and State Pharmacy Boards.

H. Provide the COUNTY with signed and date documentation of quarterly inspections including recommendations made, corrective actions implemented or problems observed.

I. Assist COUNTY in the accounting, reconciliation, and disposal/removal of unused controlled substances as outlined by federal, state, and local laws and regulations. Count sheets will be provided for strict accountability and all documentation will be enforced as required by law.

J. Inspect all areas relating to pharmacy including medication records, storage, and security.

L. Review and monitor the self-medication program with the nursing staff.

M. Provide continual assessment of recommendations for implementation. This function will be completed through written quarterly inspection reports that are provided to the Chief of Detention Medical Services and nursing staff for follow-up and evaluation of performance.

N. Meet and discharge all other required responsibilities, as set forth in federal or state laws, statutes, or regulations presently enacted, or may hereafter be enacted, as well as provide other detailed services applicable to the COUNTY sites.

12. Data Requirements

CONTRACTOR will work with Health Services Agency Information Technology staff to develop a mutually acceptable data system that will assure that all required data collected regarding pharmacy services provided under this agreement will be electronically transferred into the Health Services Agency's information system.

13. Start-up and Transition Plan

CONTRACTOR will provide a written start-up plan and schedule that covers all aspects of the services provided under this agreement including, but not limited to, the initial in-service training of COUNTY staff prior to the change of service, a time frame for all transitional activities, resolution of identified problems, and related issues. CONTRACTOR will also gather prescription information, inspect the medication room at each COUNTY site, set up a medication ordering/distribution system, obtain physician information, install fax machines, and provide any other materials, services and supplies that may be needed to assure the smooth and successful start-up, transition to, and operation of the pharmacy services detailed in this agreement.

EXHIBIT B – PAYMENT PROVISIONS

1. COMPENSATION.

In consideration for CONTRACTOR providing services described in Exhibit A (Scope of Services), COUNTY agrees to pay as follows:

A. Brand Name Medications: Average Wholesale Price (AWP) less 16%.
B. Generic Medications: AWP less 70%.

There will be no dispensing fee added. Minimum prescription charge will be $2.95. CONTRACTOR will bill in the format and in the manner required by COUNTY. CONTRACTOR will bill third party payment sources when possible.

Total amount of the agreement is not to exceed: $318,000 per year. Contractor agrees to work with County to track and project expenditures.

2. CREDIT.

Credit will be issued on full or partial cards at 100% the amount billed less $2.95 processing fee. Credit will only be issued on returned non-controlled tablets or capsules remaining in the original blister packaging provided they are within 3 months of expiration, have not been released to the inmate population, and are permitted for return by the State Board of Pharmacy and the FDA.

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COUNTY OF SANTA CRUZ

EXHIBIT C – STANDARD COUNTY / AGENCY PROVISIONS

1. **EARLY TERMINATION.** Either party hereto may terminate this contract at any time by giving thirty (30) days written notice to the other party.

2. **INDEMNIFICATION FOR DAMAGES, TAXES AND CONTRIBUTIONS.** CONTRACTOR shall exonerate, indemnify, defend, and hold harmless COUNTY (which for the purpose of paragraphs 2 and 3 shall include, without limitation, its officers, agents, employees and volunteers) from and against:

   A. Any and all claims, demands, losses, damages, defense costs, or liability of any kind or nature which COUNTY may sustain or incur or which may be imposed upon it for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with the CONTRACTOR'S performance under the terms *of* this Agreement, excepting any liability arising out of the sole negligence of the COUNTY. Such indemnification includes any damage to the person(s), or property (ies) of CONTRACTOR and third persons.

   B. Any and all Federal, State and Local taxes, charges, fees, or contributions required to be paid with respect to CONTRACTOR and CONTRACTOR'S officers, employees and agents engaged in the performance of this Agreement (including, without limitation, unemployment insurance, social security and payroll tax withholding).

3. **INSURANCE.** Unless waived in Exhibit X, Paragraph 1 of this Agreement, CONTRACTOR, at its sole cost and expense, and for the full term of this Agreement (and any extensions thereof), shall obtain and maintain at minimum all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects COUNTY and any insurance or self-insurance maintained by COUNTY shall be excess of CONTRACTOR'S insurance coverage and shall not contribute to it.

   If CONTRACTOR utilizes one or more subcontractors in the performance *of* this Agreement, CONTRACTOR shall obtain and maintain Independent Contractor's Insurance as to each subcontractor or otherwise provide evidence of insurance coverage for each subcontractor equivalent to that required of CONTRACTOR in this Agreement.

   A. TYPES OF INSURANCE AND MINIMUM LIMITS

   1. Worker's Compensation in the minimum statutory required coverage amounts.

   2. Automobile Liability Insurance for each of CONTRACTOR'S vehicles used in the performance of this Agreement, including owned, non-owned (e.g.,

owned by CONTRACTORS employees), leased or hired vehicles, in the minimum amount of $500,000 combined single limit per occurrence for bodily injury and property damage.

3. Comprehensive or Commercial General Liability Insurance coverage in the minimum amount of $1,000,000 combined single limit, including coverage for: (a) bodily injury, (b) personal injury, (c) broad form property damage, (d) contractual liability, and (e) cross-liability.

4. Professional Liability Insurance in the minimum amount of $1,000,000.

B. OTHER INSURANCE PROVISIONS

1. If any insurance coverage required in this Agreement is provided on a "Claims Made" rather than "Occurrence" form, CONTRACTOR agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement (hereinafter "post agreement coverage") and any extensions thereof. CONTRACTOR may maintain the required post agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post agreement coverage being both available and reasonable affordable in relation to the coverage provided during the term of this Agreement. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this Agreement in order to purchase prior acts or tail coverage for post agreement coverage shall be deemed reasonable.

2. All required Automobile and Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following clause:

   "The County of Santa Cruz, its officials, employees, agents and volunteers are added as additional insureds as respects the operations and activities of, or on behalf of, the named insured performed under Agreement with the County of Santa Cruz."

3. All required insurance policies shall be endorsed to contain the following clause:

   "This insurance shall not be canceled until after thirty (30) days prior written notice has been given to: County of Santa Cruz, Health Services Agency, Purchasing/Claims, 1080 Emeline Avenue, Santa Cruz, CA 95060."

4. CONTRACTOR agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide COUNTY on or before the effective date of this Agreement with Certificates of Insurance for all required coverages. All Certificates of Insurance shall be delivered or sent to: *County of Santa Cruz, Purchasing/ Claims, 1080 Emeline Avenue, Santa Cruz, CA 95060.*

4. **<u>EQUAL EMPLOYMENT OPPORTUNITY</u>.** During and in relation to the performance of this Agreement, CONTRACTOR agrees as follows:

A. The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, physical, or mental disability, medical condition (cancer related), marital status, sexual orientation, age (over 18), veteran status, gender, pregnancy, or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to, the following: recruitment; advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training (including apprenticeship), employment, upgrading, demotion, or transfer. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

B. If this Agreement provides compensation in excess of $50,000 to CONTRACTOR and if CONTRACTOR employees fifteen (15) or more employees, the following requirements shall apply:

1. The CONTRACTOR shall, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, physical, or mental disability, medical condition (cancer related), marital status, sexual orientation, age (over 18), veteran status, gender, pregnancy, or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to, the following: recruitment; advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training (including apprenticeship), employment, upgrading, demotion, or transfer. In addition, the CONTRACTOR shall make a good faith effort to consider Minority/Women/Disabled Owned Business Enterprises in CONTRACTOR'S solicitation of goods and services, Definitions for Minority/Women/Disabled Business Enterprises are available from the COUNTY General Services Purchasing Division.

2. In the event of the CONTRACTOR'S non-compliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders said CONTRACTOR may be declared ineligible for further agreements with the COUNTY.

3. The CONTRACTOR shall cause the foregoing provisions of this Subparagraph 4B. To be inserted in all subcontracts for any work covered under this Agreement by a subcontractor compensated more than $50,000 and employing more than fifteen (15) employees, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

5. **INDEPENDENT CONTRACTOR STATUS.** CONTRACTOR and COUNTY have reviewed and considered the principal test and secondary factors below and agree that CONTRACTOR is an independent contractor and not an employee of COUNTY. CONTRACTOR is responsible for all insurance (workers compensation, unemployment, etc.) and all payroll related taxes. CONTRACTOR is not entitled to any employee benefits. COUNTY agrees that CONTRACTOR shall have the right to control the manner and means of accomplishing the result contracted for herein.

PRINCIPAL TEST: The CONTRACTOR rather than COUNTY has the right to control the manner and means of accomplishing the result contracted for.

SECONDARY FACTORS: (a) The extent of control which, by agreement, COUNTY may exercise over the details of the work is slight rather than substantial; (b) CONTRACTOR is engaged in a distinct occupation or business; (c) In the locality, the work to be done by CONTRACTOR is usually done by a specialist without supervision, rather than under the direction of an employer; (d) The skill required in the particular occupation is substantial rather than slight; (e) The CONTRACTOR rather than the COUNTY supplies the instrumentalities, tools and work place; (f) The length of time for which CONTRACTOR is engaged is of limited duration rather than indefinite; (g) The method of payment of CONTRACTOR is by the job rather than by the time; (h) The work is part of a special or permissive activity, program, or project, rather than part of the regular business of COUNTY; (i) CONTRACTOR and COUNTY believe they are creating an independent contractor relationship rather than an employer-employee relationship; and (j) The COUNTY conducts public business.

It is recognized that it is not necessary that all secondary factors support creation of an independent contractor relationship, but rather that overall there are significant secondary factors, which indicate that CONTRACTOR is an independent contractor.

By their signatures to this Agreement, each of the undersigned certifies that it is his or her considered judgment that the CONTRACTOR engaged under this Agreement is in fact an independent contractor.

6. **NONASSIGNMENT.** CONTRACTOR shall not assign the Agreement without the prior written consent of the COUNTY.

7. **ACKNOWLEDGMENT.** CONTRACTOR shall acknowledge in all reports and literature that the Santa Cruz County Board of Supervisors has provided funding to the CONTRACTOR.

8. **RETENTION AND AUDIT OF RECORDS.** CONTRACTOR shall retain records pertinent to this Agreement for a period of not less than five (5) years after final payment under this Agreement or until a final audit report is accepted by COUNTY, whichever occurs first. CONTRACTOR hereby agrees to be subject

to the examination and audit by the Santa Cruz County Auditor-Controller, the Auditor General of the State of California, or the designee of either for a period of five (5) years after final payment under this Agreement.

9. **PRESENTATION OF CLAIMS.** Presentation and processing of any or all claims arising out of or related to this Agreement shall be made in accordance with the provisions contained in Chapter 1.05 of the Santa Cruz County Code, which by this reference is incorporated herein.

10. **LIVING WAGE.** This agreement is covered under Living Wage provisions if initialed by COUNTY in Exhibit X, Paragraph 2.

This agreement is subject to the provisions of Santa Cruz County Code Chapter 2.122, requiring payment of a living wage to covered employees, if initialed by the COUNTY in Exhibit X. Non-compliance during the term of the contract will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

If a contract for Living Wage covered services in excess of $50,000 is terminated prior to its expiration, any new contract with a subsequent contractor for the same services must include this term:

"CONTRACTOR shall make best efforts to offer employment to qualified employees of the prior contractor for the performance of this contract. Such efforts shall not be required in regard to employees who are (1) exempt under the Fair Labor Standards Act, (2) family members of the prior contractor, (3) employed by the prior contractor for less than six months, or ***(4)*** *convicted of a job-related or workplace crime. Upon request by the COUNTY, the CONTRACTOR shall demonstrate to the COUNTY that good faith efforts have been made to comply with this provision."*

11. **FINANCIAL REPORTING.** CONTRACTOR shall:

A. Within sixty (60) days after each annual anniversary of the effective date of this Agreement, the CONTRACTOR shall provide the Contract Administrator with a Contract Closeout Report, in a form established by the County Auditor-Controller. The Contract Administrator shall review and approve the Report. The Contract Administrator shall transmit the approved Report to the County Auditor-Controller within thirty (30) days after receipt from the CONTRACTOR.

B. Within 180 days of the end of each of the CONTRACTOR'S fiscal years occurring during the term of this Agreement, the CONTRACTOR shall provide the County Auditor-Controller and the Contract Administrator with Financial Statements relating to the entirety of the CONTRACTOR'S operations, which shall include all of the following: (1) a Statement of Financial Position or Balance Sheet; (2) a Statement of Activities or Statement of Revenues and Expenses; (3) a Cash Flow Statement; and **(4)** a Statement of Functional Expenses.

1. For the purposes of this paragraph, "CONTRACTOR'S fiscal year" shall be that period the CONTRACTOR utilizes for its annual budget cycle.

2. The Contract Administrator and the County Auditor-Controller may agree to extend the deadline for the Financial Statements required by this paragraph.

3. For any fiscal year in which the cumulative total of annual revenue received by CONTRACTOR from all sources, both public and private, equals $300,000 or more, the CONTRACTOR shall provide a Financial Statement audited by an independent certified public accountant (CPA) to the County Auditor- Controller and the Contract Administrator.

4. Where the CONTRACTOR is not required to provide audited Financial Statements, the CONTRACTOR shall provide the Financial Statements described above, along with a statement of certification signed by one of the CONTRACTOR'S directors or executive officers, stating who prepared the financial statements, and that the statements have been reviewed and approved by the CONTRACTOR'S board of directors.

C. The CONTRACTOR shall make a good faith effort to provide the Contract Administrator and the County Auditor-Controller with timely notice of any event or circumstance that materially impairs the CONTRACTOR'S financial position or substantially interferes with the CONTRACTOR'S ability to offer the services it has agreed to provide as set forth in this Agreement.

D. In the sole discretion of the County, the requirements of this paragraph may be exempted where the Contract Administrator and the County Auditor-Controller ascertain that such reporting is not essential, and both certify to its inapplicability by initialing in Exhibit X, Paragraph 3.

12. **DISALLOWANCE AND RESPONSIBILITY FOR AUDIT EXCEPTIONS.** CONTRACTOR is responsible for knowledge of, and compliance with, all COUNTY, State and Federal regulations applicable to expenditure of funds under the terms of this Agreement. In the event CONTRACTOR claims and receives payment from COUNTY which is later disallowed based on an audit performed by the COUNTY, the State of California or the United States government, CONTRACTOR shall promptly refund the disallowed amount to COUNTY on request, or at COUNTY'S sole option, COUNTY may offset the amount disallowed from any payment due or to become due to CONTRACTOR under this Agreement. CONTRACTOR also agrees to assume all responsibility for receiving, replying to, and complying with any audit exceptions by the COUNTY, State or Federal audit agency.

13. **POLITICAL ACTIVITIES PROHIBITED.** None of the funds, provided directly or indirectly, under this Agreement shall be used for any political activities or to

further the election or defeat of any candidate for public office or measure before the electoric.

14. **LOBBYING.** None of the funds provided under this contract shall be used for publicity or propaganda purposes designed to support or defeat any legislation pending before State or Federal legislatures or the Board of Supervisors of the COUNTY to an extent other than allowed under applicable federal tax regulations for tax exempt corporations pursuant to 26 C.F.R. Section 501(c)(3)-(ib)(3).

15. **CONFORMANCE TO REGULATIONS.** CONTRACTOR shall perform this Agreement in conformance with applicable Federal, State and local rules and regulations, including applicable facility and professional licensure and/or certification laws.

16. **CONFORMANCE TO LAW.** This Agreement shall be construed and interpreted according to the laws of the State of California, the United States of America and the ordinances of the County of Santa Cruz.

17. **RESPONSIBILITY FOR INVENTORY ITEMS.**

A. Equipment, materials, supplies, or property of any kind purchased from funds advanced or reimbursed under the terms of this Agreement having a useful life of three years or greater and a value in excess of three hundred dollars is defined a inventory item. All such items not fully consumed in the work described herein shall be the property of the COUNTY at the termination of this Agreement unless the COUNTY, at its sole discretion, makes an alternate disposition. CONTRACTOR shall, at the request of COUNTY, submit an inventory of said items purchased under the terms of this Agreement, and for items received on a loan basis from COUNTY; such inventory will not be required more frequently than annually. CONTRACTOR shall provide a final inventory to COUNTY'S Administrator within ten (10) days of the termination of this Agreement. Final disposition of all inventory items shall be in accordance with written instructions provided by COUNTY.

B. Inventory items in CONTRACTOR'S possession shall only be used in connection with the program funded under this Agreement, and shall not be loaned to the public at large. CONTRACTOR is strictly liable for repairing or replacing any inventory item which is lost and/or damaged while in its possession. CONTRACTOR is responsible for the proper maintenance of all inventory items. CONTRACTOR will return all inventory items to COUNTY in the same condition that it received them except for damage due to normal wear and tear.

18. **NONDISCRIMINATION IN SERVICES.**

A. By signing this Contract, Contractor certifies under the laws of the State of California that Contractor and its Subcontractors shall not unlawfully discriminate in the provision of services because of race, color, creed, national origin, sex, age, or physical or mental disability as provided by state and federal law and in accordance with Title VI of the Civil Rights Act of 1964

[42 USC 2000(d)]; Age Discrimination Act of 1975 (42 USC 6101); Rehabilitation Act of 1973 (29 USC 794); Education Amendments of 1972 (20 USC 1681); Americans with Disabilities Act of 1990 (42 USC 12101); Title 45, CFR, Part 84; provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.); and regulations promulgated thereunder (Title 2, CCR, Section 7285.0 et seq.); Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135; and Chapter 6 of Division 4 of Title 9 of the CCR, commencing with Section 10800.

B. For the purpose of this Contract, discrimination on the basis of race, color, creed, national origin, sex, age, or physical or mental disability includes, but is not limited to, the following: denying an otherwise eligible individual any service or providing a benefit which is different, or is provided in a different manner or at a different time, from that provided to others under this Contract; subjecting any otherwise eligible individual to segregation or separate treatment in any matter related to the receipt of any service; restricting an otherwise eligible individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and/or treating any individual differently from others in determining whether such individual satisfied any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit.

C. Contractor shall, on a cycle of at least every three years, assess, monitor, and document each Subcontractor's compliance with the Rehabilitation Act of 1973 and Americans with Disabilities Act of 1990 to ensure that recipients/beneficiaries and intended recipients/beneficiaries of services are provided services without regard to physical or mental disability. Contractor shall also monitor to ensure that beneficiaries and intended beneficiaries of service are provided services without regard to race, color, creed, national origin, sex, or age.

Contractor shall include nondiscrimination and compliance provisions in all subcontracts. Contractor shall establish written procedures under which service participants are informed of their rights including their right to file a complaint alleging discrimination or a violation of their civil rights. Participants in programs funded hereunder shall be provided a copy of their rights that shall include the right of appeal and the right to be free from sexual harassment and sexual contact by members of the treatment, recovery, advisory, or consultant staff.

D. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for state to withhold payments under this Contract or terminate all, or any type, of funding provided hereunder.

19. **<u>CONFIDENTIALITY OF RECORDS.</u>** CONTRACTOR agrees that all information and records obtained in the course of providing services to COUNTY in the program shall be subject to confidentiality and disclosure provisions of applicable Federal and State statutes and regulations adopted pursuant thereto.

CONTRACTOR agrees that it has a duty and responsibility to make available to the COUNTY Administrator or his/her designated representatives, including the Auditor-Controller of the COUNTY, the contents of records pertaining to COUNTY which are maintained in connection with the performance of CONTRACTOR'S duties and responsibilities under this Agreement, subject to the provisions of the heretofore mentioned Federal and State statutes and regulations. The COUNTY acknowledges its duties and responsibilities regarding such records under such statutes and regulations.

20. **MONITORING.** CONTRACTOR agrees that COUNTY shall have the right to monitor the services provided under this Agreement. Monitoring shall be conducted according to standards and guidelines as set forth by Federal, State and COUNTY requirements. CONTRACTOR agrees to provide COUNTY'S Administrator, or his/her designee, with access to all applicable files and records as may be necessary to monitor the services according to the standards or guidelines described above.

21. **REPORTS.** CONTRACTOR shall submit written reports of operations, and other reports as requested by COUNTY. Format for the content of such reports will be developed by COUNTY in consultation with CONTRACTOR. Reports shall be submitted to COUNTY'S Administrator.

22. **OWNERSHIP, PUBLICATION, REPRODUCTION AND USE OF MATERIAL.** All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other material or properties produced under this Agreement shall be the property of COUNTY. No such materials or properties produced in whole or in part under this Agreement shall be subject to private use, copyright or patent right by CONTRACTOR in the United States or in any other country without the express written consent of the COUNTY. COUNTY shall have unrestricted authority to publish, disclose, distribute and otherwise use copyright or patent right by CONTRACTOR in the United States or in any other country without the express written consent of the CONTRACTOR. COUNTY shall have unrestricted authority to publish, disclose, distribute and otherwise use copyright or patent, in whole or in part, any such reports, studies, data, statistics, forms or other materials or properties produced under this Agreement.

23. **EVALUATION/RESEARCH.** Evaluation or research involving contact with past or present recipients of services provided under this Agreement shall be permitted with the informed consent of the recipient and only after the CONTRACTOR has determined that the conduct of such evaluation or research will not adversely affect the quality of services provided or individual participation in services. COUNTY reserves the right to prohibit or terminate evaluation or research activities which in its judgment jeopardize the quality of services or individual participation in services provided under this Agreement.

24. **TRAVELING EXPENSES, FOOD AND LODGING.** CONTRACTOR'S claim for travel expense for food and lodging must be directly related to this program and

shall be at rates not to exceed federal issued per diem rates. No travel outside of the State of California shall be payable unless prior written authorization is obtained from COUNTY'S Administrator.

25. **CONTRACTOR PERSONNEL STANDARDS.** The CONTRACTOR shall determine that all staff providing services under this Agreement shall be qualified to perform the job requirements under this Agreement.

26. **AMENDMENTS.** No alteration, amendment, or modification of the terms of this Agreement shall be valid unless executed by written amendment hereto and approved by COUNTY.

27. **NOTICE OF POSSIBLE TERMINATION FOR CAUSE.**

A. In the event CONTRACTOR fails to perform any of the provisions of this Agreement or fails to make progress so as to endanger performance of this Agreement in accordance with its terms, and in either of these circumstances does not cure such failure within a period of fourteen (14) days after receipt of notice from COUNTY specifying such failure, COUNTY may by written notice of default terminate the whole or part of this Agreement.

B. In the event of a termination pursuant to Paragraph 27A, all finished or unfinished documents, and other materials, prepared by CONTRACTOR under this Agreement shall become the property of COUNTY. CONTRACTOR shall be entitled to receive reasonable compensation not to exceed actual cost as reported in interim cost reports for any satisfactory work completed on such documents, or other such materials to date of termination, not to exceed amount payable to date of termination under Paragraph 27A reduced by the amount of damages sustained by COUNTY by reason of such breach.

28. **TERMINATION DUE TO CESSATION OF FUNDING.** COUNTY shall have the right to terminate this Agreement without prior notice to CONTRACTOR in the event that State or Federal funding for this Agreement ceases prior to the ordinary term of the Agreement.

29. **WITHHOLDING OF PAYMENT.** COUNTY may withhold final payment until year- end reports are received and approved by COUNTY. COUNTY may suspend or terminate payments for noncompliance with the terms of this Agreement. Including non-compliance with agreements from prior years.

30. **OVERPAYMENTS.** Overpayments as determined by audits shall be payable to COUNTY within thirty (30) days after date of said determination. Overpayments held in excess of thirty days shall be subject to a penalty charge of a flat twelve (12) percent per annum.

31. **SAFETY AND INFECTION CONTROL.** CONTRACTOR asserts that it is in compliance with applicable Cal/OSHA guidelines for safety and infection control, including blood-borne pathogens, and that there are no enforcement actions,

litigation, or other legal or regulatory proceedings in progress or being brought against CONTRACTOR as a result of non-compliance with such guidelines. CONTRACTOR agrees to notify COUNTY immediately should the status of any of the assertions in this paragraph change or come into question.

32. **CULTURAL COMPETENCY.** In order to ensure access to services, CONTRACTOR shall provide services in a culturally competent manner. Cultural competency is defined as a congruent set of practice skills, behaviors, attitudes and policies that enable staff to work effectively in cross-cultural situations.

EXHIBIT H_2- HIPAA
BUSINESS SERVICES ADDENDUM
County-Covered Entity

This Business Associate Addendum (this "Addendum") is entered into by and between the COUNTY OF SANTA CRUZ, hereinafter referred to as "County") and CONTRACTOR (hereinafter referred to as "Business Associate") in order to comply with the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, governing protected health information ("PHI), as amended from time to time (statute and regulations hereinafter collectively referred to as "HIPAA").

1. Use and Disclosure of Protected Health Information

Except as otherwise provided in this Addendum, Business Associate, may use or disclose protected health information only to perform functions, activities or services for or on behalf of the County, hereinafter referred to as the *County,* as specified in the Agreement, provided that such use or disclosure does not violate the Health Insurance Portability and Accountability Act (HIPAA), (U.S.C. 1320d et seq.), and its implementing regulations including but not limited to 45 Code of Federal Regulations parts 142, 160, 162, and 164, hereinafter referred to as the Privacy Rule. The uses and disclosures of PHI may not exceed the limitations applicable to the *County* under the regulations except as authorized for management, administrative or legal responsibilities of the Business Associate.

2. Further Disclosure of PHI

The Business Associate shall not use or further disclose PHI other than as permitted or required by this Addendum, or as required by law.

3. Safeguarding PHI

The Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Addendum.

4. Unauthorized Use or Disclosure of PHI

The Business Associate shall report to the *County* any use or disclosure of the PHI not provided for by this Addendum or otherwise in violation of the Privacy Rule. Business Associate shall mitigate to the extent practicable any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Addendum. Business Associate shall report to County within twenty-four hours during a work week of discovery by Business Associate that PHI has been used or disclosed other that as provided for in this Addendum.

5. Aaents and Subcontractors of the Business Associate

The Business Associate shall ensure that any agent, including a subcontractor, to which the Business Associate provides PHI received from, or created or received by the Business Associate on behalf of the *County,* shall comply with the same restrictions and conditions that apply through this Addendum to the Business Associate with respect to such information.

6. Access to PHI

At the request of the *County,* and in the time and manner designated by the *County,* the Business Associate shall provide access to PHI in a Designated Record Set to an Individual or the *County* to meet the requirements of 45 Code of Federal Regulations section 164.524.

7. Amendments to Designated Record Sets

The Business Associate shall make any amendment(s) to PHI in a Designated Record Set that the *County* directs or at the request of the Individual, and in the time and manner designated by the *County* in accordance with 45 Code of Federal Regulations Section 164.526.

8. Documentation of Uses and Disclosures

The Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for the *County* to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 Code of Federal Regulations section 164.528.

9. Accounting of Disclosure

The Business Associate shall provide to the *County* or an Individual, in the time and manner designated by the *County,* information collected in accordance with 45 Code of Federal Regulations section 164.528, to permit the *County* to respond to a request by the Individual for an accounting of disclosures of PHI in accordance with 45 Code of Federal Regulations section 164.528.

10. Records Available to County and Secretary

The Business Associate shall make available records related to the use, disclosure, and privacy protection of PHI received from the *County,* or created or received by the Business Associate on behalf of the *County,* to the *County* or to the Secretary of the United State Department of Health and Human Services for purposes of investigating or auditing the *County's* compliance with the privacy requirements, in the time and manner designated by the *County* or the Secretary.

11. Destruction of PHI

Upon termination of this Addendum for any reason, the Business Associate shall:

a) Return all PHI received from the *County,* or created or received by the Business Associate on behalf of the *County* required to be retained by the Privacy Rule; or
b) Return or destroy all other PHI received from the *County,* or created or received by the Business Associate on behalf of the *County.*

This provision shall apply to PHI in possession of subcontractors or agents of the Business Associate. The Business Associate, its agents or subcontractors shall retain no copies of the PHI.

In the event the Business Associate determines that returning or destroying the PHI is not feasible, the Business Associate shall provide the *County* notification of the conditions that make return or destruction not feasible. If the *County* agrees that the return of the PHI is not feasible, the Business Associate shall extend the protections of this Addendum to such PHI and limit further use

and disclosures of such PHI for so long as the Business Associate, or any of its agents or subcontractors, maintains such PHI.

12. Amendments to Addendum

The Parties agree to take such action as is necessary to amend this Addendum as necessary for the *County* to comply with the requirements of the Privacy Rule and its implementing regulations.

13. Mitigation of Disallowed Uses and Disclosures

The Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Addendum or the Privacy Rule.

14. Data Aggreaation

The Business Associate may provide data aggregation services related to the health care operation of the County.

15. Termination of Contracts

The *County* shall terminate this contract upon knowledge of a material breach by the Business Associate of which the Business Associate fails to cure.

16. Assistance in Litination or Administrative Proceedings

Business Associate shall make itself, and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Addendum, available to County at no cost to County to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against County, it employees or officers based upon a claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, except where Business Associate or its subcontractor, employee or agent is a named adverse party.

17. No Third-Partv Beneficiaries.

Nothing express or implied in the terms and conditions of this Addendum is intended to confer, nor shall anything herein confer, upon any person other than County or Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

18. Regulatory References.

A reference in the terms and conditions of this Addendum to a section in the HIPAA regulations means the section as in effect or as amended.

19. Survival.

The respective rights and obligations of Business Associate under Section 11 of this Addendum shall survive the termination or expiration of this Addendum.