

CONTRACT AMENDMENT ROUTING SHEET

Date Prepared: 09/04/2020

Need Date: 09/11/2020

PROCESSING DEPARTMENT:

Department: Health and Human Services Agency
Dept. Contact: Lisa Konyecsni
Phone: 6901
Department Head Signature: Yvonne Kollings
Digitally signed by Yvonne Kollings
DN: cn=Yvonne Kollings, o, ou,
email=yvonne.kollings@edc.gov.us, c=US
Date: 2020.09.04 09:45:11 -07'00'
Yvonne Kollings, CFO

CONTRACTOR:

Name: Maxim Healthcare Staffing Services, Inc.
Address: 7227 Lee DeForest Dr.
Columbia, CA 21046
Phone: _____
Org Code: 5430
Project String
(if applicable): _____

CONTRACTING DEPARTMENT: Health and Human Services Agency - Public Health

Service Requested: Legal review

Description: Amendment to clarify the Contractor's full legal name and to correct a couple typos

Contract Term: 8/25/20 - 8/24/21 (no change) Contract Value: \$600,000 (no change)

COUNTY COUNSEL: (must approve all contracts and MOU's)

Approved: Disapproved: Date: 09/04/2020 By: Paula Frantz
Digitally signed by Paula Frantz
Date: 2020.09.04 17:34:30 -07'00'
Approved: Disapproved: Date: 09/24/2020 By: Paula Frantz
Digitally signed by Paula Frantz
Date: 2020.09.24 13:34:19 -07'00'

COUNSEL -- PLEASE FORWARD TO HR AND RISK MANAGEMENT -- THANKS!

HR APPROVAL:

Compliance with Human Resources requirements? Yes: No:
Compliance verified by: Lauren Montalvo
Digitally signed by Lauren Montalvo
Date: 2020.09.09 15:21:33 -07'00'

RISK MANAGEMENT APPROVAL: (all contracts & MOU's except boilerplate grant funding contracts)

Approved: Disapproved: Date: 09/10/2020 By: Robert R. Schroeder
Digitally signed by Robert R. Schroeder
Date: 2020.09.10 12:35:55 -07'00'
Approved: Disapproved: Date: _____ By: _____

OTHER APPROVAL: (Specify department(s) participating or directly affected by this contract).

Departments:
Approved: Disapproved: Date: _____ By: _____
Approved: Disapproved: Date: _____ By: _____

PLEASE EMAIL FOR PICK-UP hhsa-contracts@edc.gov.us Thank you!

ORIGINAL

AGREEMENT FOR SERVICES #5061 AMENDMENT I

This Amendment I to that Agreement for Services #5061 is made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Maxim Healthcare Staffing Services, Inc., a Maryland Corporation including its affiliates and subsidiaries, duly qualified to conduct business in the State of California, whose principal place of business is 7227 Lee DeForest Drive, Columbia, MD 21046, and whose local place of business is 1050 Fulton Avenue, Suite 230 Sacramento, CA 95825; and whose agent for service of process is Corporation Service Company d.b.a. CSC-Lawyers Incorporating Service; 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833 (hereinafter referred to as "Contractor");

RECITALS

WHEREAS, Contractor has been engaged by County to provide Coronavirus 2019 (COVID-19) Screening, Testing, Triage, Investigation, and Contact Tracing, in accordance with Agreement for Services #5061, dated August 25, 2020, incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement"); and

WHEREAS, this Amendment I updates the preamble to the original Agreement 5061 in which a typographical error occurred in reference to the structure of Maxim Healthcare Staffing Services, Inc.; and

WHEREAS, the parties hereto have mutually agreed to correct a typographical error in ARTICLE I, "Scope of Services" A. 4., and to correct an error to the Contractor's name in ARTICLE XV, "Notice to Parties."

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NOW THEREFORE, the parties do hereby agree that Agreement for Services #5061 shall be amended a first time as follows, and shall be effective upon execution:

1. The preamble to the Agreement shall be amended in its entirety to read as follows:

THIS AGREEMENT for Services #5061 is made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Maxim Healthcare Staffing Services, Inc., hereinafter referred to as "Contractor" (W-9 Information as follows: Maxim Healthcare Services Holdings, Inc. d/b/a Maxim Healthcare Staffing Services. Inc.), whose principal place of business is 7227 Lee Deforest Drive, Columbia, MD 21046-3236, and whose Agent for Service of Process is *Corporation Service Company which will do business in California as CSC – Lawyers Incorporating Service, 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833.*

2. **Article I, "Scope of Services," A. 4.** shall be amended in its entirety to read as follows:

ARTICLE I

Scope of Services:

A. 4. Conduct Case Investigations and Contact Tracing of individuals identified positive for the COVID-19 virus and those who have had close contact with a positive case.

3. **Article XV, "Notice to Parties"** shall be amended in its entirety to read as follows:

ARTICLE XV

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

COUNTY OF EL DORADO
Health and Human Services Agency
3057 Briw Road, Suite B
Placerville, CA 95667
ATTN: Contracts Unit

or to such other location as the County directs.

with a copy to

COUNTY OF EL DORADO
Chief Administrative Office
Procurement and Contracts Division
330 Fair Lane
Placerville, CA 95667
ATTN: Purchasing Agent

Notices to Contractor shall be addressed as follows:

MAXIM HEALTHCARE STAFFING SERVICES, INC.
7227 Lee DeForest Drive
Columbia, MD 21046
ATTN: Chief Executive Officer

or to such other location as the Contractor directs

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Except as herein amended, all other parts and sections of that Agreement #5061 shall remain unchanged and in full force and effect.

Requesting Contract Administrator Concurrence:

By: 
Lynnann Svensson, MSN, RN, PHN
Public Health Nursing Manager
Health and Human Services Agency

Dated: 9/25/2020

Requesting Department Head Concurrence:


By: 
Donald Semon
Director
Health and Human Services Agency

Dated: 9-30-20

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IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to that Agreement for Services #5061 on the dates indicated below.

-- COUNTY OF EL DORADO --

By: 
Purchasing Agent
Chief Administrative Office
"County"

Dated: 10/13/2020

-- CONTRACTOR --

MAXIM HEALTHCARE STAFFING SERVICES, INC.
A Maryland Corporation

By: 
Andrea Torres, Assistant Controller
"Contractor"

Dated: 9-25-2020

AGREEMENT CONTRACT ROUTING SHEET

Date Prepared: 08/04/2020

Need Date: 08/06/2020

PROCESSING DEPARTMENT:

CONTRACTOR:

Department: HHSA
Dept. Contact: Lisa Konyecsni
Phone: 295-6901
Department Head Signature: Yvonne Kollings

Digitally signed by Yvonne Kollings
DN: cn=Yvonne Kollings, o, ou,
email=yvonne.kollings@edcgov.us, c=US
Date: 2020.08.04 10:16:12 -0700

Name: Maxim Healthcare
Address: 7227 Lee DeForrst Dr.
Columbia, MD 21046

Phone: _____

Org Code: 5430

Project # _____
(if applicable): _____

Funding Source: CARES/FEMA

CONTRACTING DEPARTMENT: HHSA - Public Health

Service Requested: Urgent review please

Description: Staffing for COVID-19 and other infectious disease screening, testing, triage, investigations, and contract tracing

Contract Term: Upon execution - ~~08/31/2023~~ for 1 year Contract Value: ~~\$ 400,000.00~~ \$600,000

COUNTY COUNSEL: (Must approve all contracts and MOU's)

Approved: Disapproved: Date: 08/17/2020 By: Paula Frantz

Digitally signed by Paula Frantz
Date: 2020.08.17 17:13:35
-0700

Approved: Disapproved: Date: _____ By: _____

HR APPROVAL: WILL BE REVIEWED THROUGH WORKFLOW

RISK MANAGEMENT: WILL BE REVIEWED THROUGH WORKFLOW

PLEASE ~~EMAIL~~ FOR PICK-UP hlsa-contracts@edcgov.us Thank you!

AGREEMENT FOR SERVICES #5061

Coronavirus 2019 Screening, Testing, Triage, Investigation, and Contact Tracing

THIS AGREEMENT for Services #5061 is made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Maxim Healthcare Staffing Services, Inc., a Maryland Corporation including its affiliates and subsidiaries, duly qualified to conduct business in the State of California, whose principal place of business is 7227 Lee DeForest Drive, Columbia, MD 21046, and whose local place of business is 1050 Fulton Avenue, Suite 230 Sacramento, CA 95825; and whose agent for service of process is Corporation Service Company d.b.a. CSC-Lawyers Incorporating Service; 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833 (hereinafter referred to as "Contractor");

RECITALS

WHEREAS, this Agreement is entered into pursuant to the Governor's State of Emergency Proclamation dated March 4, 2020, Executive Orders N-25-20, and N-33-20, guidance issued by the California Department of Public Health that includes the need to practice social distancing, and is directly related to that emergency and necessary for the preservation of public health and safety; and

WHEREAS, County has determined that it is necessary to obtain a Contractor to provide Coronavirus 2019 (COVID-19) Screening, Testing, Triage, Investigation, and Contact Tracing for the County of El Dorado Health and Human Services Agency; and

WHEREAS, Contractor has represented to County that it is specially trained, experienced, expert, and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable Federal, State (all references to "State" in this Agreement shall mean the State of California unless otherwise specified), and local laws; and

WHEREAS, County has determined that the provision of such services provided by Consultant are in the public's best interest and that due to the limited timeframes, temporary or occasional nature, or schedule for the project or scope of work, the ongoing aggregate of work to be performed is not sufficient to warrant the addition of permanent staff in accordance with El Dorado County Ordinance Code, Chapter 3.13.030, El Dorado County Charter, Section 210(b)(6), and/or Government Code Section 31000;

NOW, THEREFORE, County and Contractor mutually agree as follows:

ARTICLE I

Scope of Services:

A. Upon written request, Contractor agrees to provide one (1) or more staff, that will complete the California State training for COVID-19 investigation as specified, seven (7) days a week, for Coronavirus Disease (COVID-19), screening, testing, triage, investigation, and contact tracing as follows:

1. Screening, testing, and triage for COVID-19 at multiple locations including but not limited to schools, community centers, Temporary Evacuation Points (TEP), and congregate and non-congregate shelters. County will notify Contractor of service locations as applicable.
2. Nursing care of COVID-19 positive sheltered residents that are medically fragile, including but not limited to those needing colostomy care, assistance with activities of daily living, and nebulizer treatments.
3. Perform COVID-19 testing and notifications to individuals with positive test results. Notifications shall be made within the timeframe El Dorado County Public Health sets forth.
4. Conduct Case Investigations and Contact Tracing of individuals identified positive for the COVID-19 virus and those who have had close contact with a positive case.
5. All above services, including documentation and specimen labeling, shall be provided in a safe, prompt, accurate, and culturally sensitive manner in accordance with current guidelines and best practices (including updates thereto) set forth by El Dorado County Public Health, California Department of Public Health, and the Centers for Disease Control and Prevention.

B. COUNTY RESPONSIBILITIES:

1. County retains full authority and responsibility for management of care for each of its Clients and for ensuring that services provided by Contractor personnel under this Agreement are furnished in a safe and effective manner and in accordance with applicable standards.
2. County will evaluate the resources of the Client and the Client's family, and assume overall responsibility for the administration of services, to include:
 - a. Defining nature and scope of services to be provided
 - b. Coordinating, supervising, and evaluating care provided
 - c. Implementing, reviewing, and revising the plan of treatment
 - d. Scheduling and performing Client assessments as needed
3. County shall use its best efforts to request personnel for a pre-determined period (hereinafter "Shift") at least twenty-four (24) hours prior to reporting time in order to assure prompt arrival of assigned personnel. All information regarding reporting time and assignment shall

be provided by County at the time of the initial call.. If request is made less than two (2) hours prior to the start of the Shift, billing may be subject to hourly minimums as defined in ARTICLE III, "Compensation for Services."

4. Supervision: County staff will be available by telephone twenty-four (24) hours a day at the number(s) provided by HHS.A.
5. County may request the dismissal of any Contractor personnel for any reason. If County concludes, in its sole discretion, that any personnel provided by Contractor have engaged in misconduct, or have been negligent, County may require the individual to leave the premises and will notify Contractor immediately in writing, providing in reasonable detail the reasons(s) for such dismissal. County's obligation to compensate Contractor for such individual's services will be limited to the number of hours actually worked. Contractor shall not reassign the individual to the facility without prior approval of County.

C. CONTRACTOR RESPONSIBILITIES:

1. Contractor shall supply personnel who meet the following criteria:
 - a. Possess current state license/registration and/or certification;
 - b. Possess CPR certification, as requested in writing by County to comply with applicable law;
 - c. Completed pre-employment physical as requested in writing by County to comply with applicable law;
 - d. Possess proof of pre-employment screening to include a tuberculosis skin test, professional references, criminal background check(s) (and drug screenings as requested in writing); and
 - i. Possess a preferred one (1) year of relevant professional experience and a preferred one (1) year of specialty experience.
 - ii. Possess current licensure as appropriate to level of staff requested.
 - iii. Possess current skills competency to include, (i) written exam; (ii) skills checklist; and (iii) verified work history.
 - iv. Completed Contractor standard OSHA and HIPAA training.
2. Contractor shall notify County within five (5) business days of any pending Federal, State, County, City, or licensing or governing agency investigations or investigation findings, disciplinary actions, or administrative actions found against Contractor or Contractor's employees' professional license(s). This includes but is not limited to formal accusations, citations, revocations, suspensions, stayed revocations, or suspensions, probation, voluntary, or mandatory surrender of license, or formal public reprimand.
 - a. Within five (5) business days of formal accusations, citations, revocations, suspensions, stayed revocations or suspensions, probation, voluntary or mandatory surrender of license, or formal public reprimand, Contractor shall provide County with copies of Court accusations and/or dispositions relating to Contractor or Contractor's employee's license.
 - b. Contractor shall provide initial and ongoing proof of compliance with probationary stipulations.

3. Contractor shall maintain direct responsibility as employer for payment of wages, and federal, state, and local income taxes, social security taxes, workers' compensation, and unemployment insurance. Contractor agrees to maintain documentation on all personnel provided by Contractor in an employee file.
 4. When applicable, Contractor agrees that in accordance with Section 952 of the Omnibus Budget Reconciliation Act of 1980, its contracts, books, documents, and records will be made available to the Comptroller General of the United States, the United States Department of Health and Human Services and their duly authorized representative (USDHHS) until the expiration of four (4) years after the date on which such services were furnished under this Agreement.
 5. Contractor shall immediately contact County's Contract Administrator, or designee, at no charge to County, to inform them of any urgent concerns directly affecting Contractor's ability to provide services.
- D. DOCUMENTATION: Contractor shall provide HHS staff, at no charge to County, with written documentation that outlines clinical notes and observations for each individual served. Instructions, applicable forms, or other County required documentation will be provided by County to Contractor's staff as necessary.
- E. HHS AUTHORIZATION FOR SERVICE(S): Prior to providing any service(s) detailed under ARTICLE I, "Scope of Services" or ARTICLE III, "Compensation for Services," Contractor shall obtain an HHS Authorization in writing.

ARTICLE II

Term: This Agreement shall become effective upon final execution by all parties hereto and shall expire one year from the date thereof, unless terminated earlier pursuant to the provisions contained herein this Agreement under ARTICLE XIV, "Default, Termination, and Cancellation" or ARTICLE XII, "Fiscal Considerations."

ARTICLE III

Compensation for Services: For services provided herein, County agrees to pay Contractor monthly in arrears. Payments shall be made within forty-five (45) days following County's receipt and approval of itemized invoice(s) identifying services rendered.

Possible Funding Sources include but may not be limited to:
Coronavirus Aid, Relief, and Economic Security Act (CARES)
Federal Emergency Management Agency (FEMA)
County of El Dorado Public Health Realignment

For the purposes of this Agreement, the billing rates shall be in accordance with “Fee Schedule” herein below.

Contractor may bill County for a minimum four (4) hour Shift at the established fee for each scheduled personnel if either of the following conditions occur: (1) A request for personnel is made less than two (2) hour(s) prior to the start of the Shift, (2) County changes or cancels a request for personnel less than four (4) hours prior to the start of a Shift.

- Contractor shall be responsible for notifying and contacting Contractor’s personnel prior to reporting time.

Fee Schedule

Classification	County Negotiated Rate
Registered Nurse	\$85 / Hour
Licensed Vocational Nurse	\$60 / Hour
Medical Assistant	\$40 / Hour
Mental Health Worker/Sitter/CNA	\$37/ Hour
LMFT	\$85 / Hour
LCSW	\$95 / Hour
Lab Assistant	\$145 / Hour
Contact Tracer	\$50 / Hour
Admin	\$40/ Hour

Overtime: Overtime must have prior written HHS staff approval. Overtime shall be defined in accordance with the United States Department of Labor-Fair Labor Standards Act (FLSA). Overtime rates shall be charged in accordance with the FLSA. The overtime rate is one and one-half (1 1/2) times the regular billing rate for such hours.

Holidays: Holiday rates, of one and one-half (1 1/2) times the hourly rate for the listed staff classification, will apply to shifts beginning at 11:00 p.m. the night before the recognized holiday through 11:00 p.m. the night of the recognized holiday, except for Christmas, when holiday rates will apply for any shifts starting at 3:00 p.m. on Christmas Eve.

Maxim Recognized Holidays	
New Year’s Eve (from 3 p.m.)	Thanksgiving Day
New Year’s Day	Labor Day
Memorial Day	Christmas Eve (from 3 p.m.)
Independence Day	Christmas Day
Easter	Presidents Day
Martin Luther King Day	//////////

Travel Expenses: With the exception of mileage reimbursement, travel expenses, including but not limited to travel time, meals, lodging, shall not be paid by County. Reimbursement for mileage necessary for the performance of services under this Agreement shall be in accordance with the

current "Board of Supervisors Policy D-1", and as amended thereafter, which may be found in the Board of Supervisors Policy Manual:

https://www.edcgov.us/government/bos/Policies/pages/Policy_Manual.aspx#SectionD.

Contractor shall submit mileage logs with the original invoice for all requested mileage reimbursements.

Invoices: It is a requirement of this Agreement that Contractor shall submit an original invoice, similar in content and format with the Invoice Template found at https://www.edcgov.us/Government/hhsa/Pages/hhsa_contractor_resources.aspx , incorporated by reference herein. HHSAs Authorizations or other written authorizations for services shall be attached to invoices

Contractor is required to submit monthly invoices with a copy of the Authorization, no later than fifteen (15) days following the end of a "service month." For billing purposes, a "service month" shall be defined as a calendar month during which Contractor provides Client services in accordance with "Scope of Services." Failure to submit invoices and Authorizations by the 15th of the month following the end of a service month shall result in payment(s) being withheld until the appropriate documents are received by staff. Receipt by HHSAs of invoices and associated paperwork submitted by Contractor for payment shall not be deemed evidence of allowable costs under this Agreement. Upon request by County, Contractor may be required to submit additional or new information, which may delay reimbursement.

Invoices shall be sent as follows, or as otherwise directed in writing by County:

<i>Email (preferred method):</i>	<i>U.S. Mail:</i>
<p>PHinvoice@edcgov.us Please include in the subject line: "Contract #, Service Month, Description / Program</p>	<p>County of El Dorado Health and Human Services Agency Attn: Finance Unit 3057 Briw Road, Suite B Placerville, CA 95667-5321</p>

- **Supplemental Invoice Process:** For those situations where a service is disallowed by HHSAs on an invoice, or inadvertently not submitted on an invoice, and a corrected invoice is later submitted ("Supplemental Invoice"), Supplemental Invoices for services provided during the period **July 1st through June 30th** for each fiscal year of this Agreement and received by HHSAs after July 31 of the subsequent fiscal year, shall be neither accepted nor paid by the County. Requests for exceptions to pay an invoice received after July 31 of the subsequent year, must be submitted in writing and must be approved by HHSAs's Chief Fiscal Officer.

ARTICLE IV

Federal Funding Notification:

- A. DUNS Number, and System for Award Management: As a government agency responsible for the administration of Federal funding, County has an obligation under Title 12, Subtitle A, Chapter 1 Part 180 of the Code of Federal Regulations to ensure those contractors receiving federal funds are not debarred or suspended. Therefore, Contractor is required to obtain and maintain an active DUNS number, as well as an active registration in the System Award Management (SAM.gov). Noncompliance with these two (2) requirements shall result in corrective action, up to and including termination pursuant to the provisions contained herein this Agreement under ARTICLE XIV, "Default, Termination, and Cancellation" or ARTICLE XII, "Fiscal Considerations."
1. Business entities may register for a DUNS number at <http://www.dnb.com/duns-number.html>.
 2. Contractor must register the DUNS number and maintain an "Active" status within the federal System for Award Management available online at <https://www.sam.gov/SAM/>. If County cannot access or verify "Active" status the Contractor's DUNS information, which is related to this federal subaward on the Federal Funding Accountability and Transparency Act Subaward Reporting System (SAM.gov) due to errors in Contractor's data entry for its DUNS number, Contractor must immediately update the information as required.
- B. Catalog of Federal Domestic Assistance: Pursuant to the Office of Management and Budget (OMB) Uniform Grants Guidance, all recipients and sub-recipients of federal funds must be provided the Catalog of Federal Domestic Assistance (CFDA) number at the time the contract is awarded. The following are CFDA numbers, award specific information, and program titles for programs administered by the County on behalf of California Department of Social Services that may apply to this contract:

Subrecipient Information			
Subrecipient:	Maxim Healthcare Services, Inc.		DUNS #: 606290401
Subaward Term:	Upon execution for 1 year		EIN #: 83-2976157
Total Federal Funds Obligated: \$600,000			
Federal Award Information			
CFDA Number	Federal Award ID Number (FAIN)	Federal Award Date / Amount	Program Title
-	-	03/27/20 – 12/30/20	Coronavirus Aid, Relief, and Economic Security Act
-	-	-	Federal Emergency Management Agency
Project Description:	Public Health Staffing – COVID-19 screening, testing, triage, investigations, and contact tracing		
Awarding Agency:	U.S. Department of the Treasury		
Pass-through Entity	County of El Dorado, Health and Human Services Agency		

Subrecipient Information		
Indirect Cost Rate or de minimus	Indirect Cost Rate: _____	De minimus <input checked="" type="checkbox"/>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Award is for Research and development.

ARTICLE V

Audits, Compliance, and Monitoring:

- A) Contractor shall provide a copy of any Audit to County within thirty (30) days of completion of said audit.
- B) Audits and compliance monitoring by any representative of the Federal government, State government, or County may include the review of any and all terms related to this Agreement. Audits or monitoring by the County may be performed by way of annual Contract Monitoring Surveys. Contractors receiving a Contract Monitoring Survey shall, within sixty (60) days of receipt, complete and return the survey along with all documentation, details, and supporting materials required by the survey or otherwise necessary for the County to verify compliance with the terms and conditions of the Agreement. Failure to return the survey within the specified time period may result in the withholding of payment from the Contractor until such time as compliance with the terms of the Agreement can be verified. Verifying compliance may necessitate additional on-site reviews should information submitted by the Contractor be deemed insufficient or inaccurate.
- C) All files, records, documents, sites, and personnel are subject to review by representatives from County, State or Federal government.
- D) Upon notification of an exception or finding of non-compliance, the Contractor shall submit evidence of Corrective Action within thirty (30) days, or as otherwise specified in the notice of required corrective action provided by the County. Continued non-compliance beyond due date for submission of Corrective Action may lead to termination of this Agreement in accordance with ARTICLE XIV, "Default, Termination, and Cancellation."
- E) Failure by County to notify or require Corrective Action does not constitute acceptance of the practice of waiver of County's right to enforce.

ARTICLE VI

Maximum Obligation: The maximum contractual obligation under this Agreement shall not exceed \$600,000 for all of the stated services during the term of the Agreement.

ARTICLE VII

Taxes: Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

ARTICLE VIII

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE IX

Contractor to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Contractor shall act as Contractor only to County and shall not act as Contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Contractor's responsibilities to County during term hereof.

ARTICLE X

Assignment and Delegation: Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

In the event Contractor receives written consent to subcontract services under this Agreement, Contractor is required to ensure subcontractor remains in compliance with the terms and conditions of this Agreement. In addition, Contractor is required to monitor subcontractor's compliance with said terms and conditions, and provide written evidence of monitoring to County upon request.

ARTICLE XI

Independent Contractor/Liability: Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

ARTICLE XII

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services

not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE XIII

Audit by California State Auditor: Contractor acknowledges that if total compensation under this agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code Section 8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the contract, all books, records and documentation necessary to demonstrate performance under the Agreement.

ARTICLE XIV

Default, Termination, and Cancellation:

- A. Default: Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. Bankruptcy: This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. Ceasing Performance: County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part upon seven (7) calendar days' written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

ARTICLE XV

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

COUNTY OF EL DORADO
Health and Human Services Agency
3057 Briw Road, Suite B
Placerville, CA 95667
ATTN: Contracts Unit

or to such other location as the County directs.

with a copy to

COUNTY OF EL DORADO
Chief Administrative Office
Procurement and Contracts Division
330 Fair Lane
Placerville, CA 95667
ATTN: Purchasing Agent

Notices to Contractor shall be addressed as follows:

MAXIM HEALTHCARE SERVICES, INC.
7227 Lee DeForest Drive
Columbia, MD 21046
ATTN: CHIEF EXECUTIVE OFFICER

or to such other location as the Contractor directs.

ARTICLE XVI

Change of Address: In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing pursuant to the provisions contained in this Agreement under Article XV, "Notice to Parties." Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

ARTICLE XVII

Indemnity: Each Party shall defend, indemnify, and hold the other Party, its officials, officers, employees, agents, and volunteers, harmless from and against any and all liability, loss, expenses (including reasonable attorneys' fees), or claims for injury or damage arising out of the performance of this agreement, but only in proportion to and to the extent such liability, loss, expenses (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the negligent or intentional acts or omissions of the indemnifying Party, its officials, officers, employees, agents, subcontractors, or volunteers.

ARTICLE XVIII

Litigation:

- A. County, promptly after receiving notice thereof, shall notify Contractor in writing of the commencement of any claim, suit, or action against County or State of California or its officers or employees for which Contractor must provide indemnification under this Agreement. The failure of County to give such notice, information, authorization, or assistance shall not relieve the Contractor of its indemnification obligations.
- B. Contractor, promptly after receiving notice thereof, shall immediately notify County in writing of any claim or action against it which affects, or may affect, this Agreement, the terms and conditions hereunder, or County or State of California, and shall take such action with respect to said claim or action which is consistent with the terms of this Agreement and the interest of County and State.

ARTICLE XIX

Insurance: Contractor shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.

- D. In the event Contractor is a licensed professional or professional consultant, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. Contractor shall give County at least 30 days notice before the insurance is set to expire or before contractor cancels or replaces and/or amends Contractor's coverage. In the event that Contractor's insurance is proposed to be cancelled by the insurer, Contractor agrees to notify County within five (5) working days of receiving notice or proposed cancellation. Failure to maintain insurance as identified above shall be considered a material breach, and County may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that the County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for protection of the County.

ARTICLE XX

Interest of Public Official: No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE XXI

Interest of Contractor: Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

ARTICLE XXII

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Contractor attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Contractor relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in ARTICLE XIV, "Default, Termination and Cancellation."

ARTICLE XXIII

Assurance of Compliance: Contractor shall comply with Exhibit A, "Vendor Assurance of Compliance with the County of El Dorado Health and Human Services Agency Nondiscrimination in State and Federally Assisted Programs," attached hereto, incorporated by reference herein and thus made a part hereof. Contractor shall acknowledge compliance by signing and returning Exhibit A upon request by County.

ARTICLE XXIV

California Residency (Form 590): If Contractor is a California resident, Contractors must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. The Contractor will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Contractor during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

ARTICLE XXV

Nonresident Withholding: If Contractor is not a California resident, Contractor shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Contractor during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Contractor shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

ARTICLE XXVI

Taxpayer Identification Number (Form W-9): All independent Contractors or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

ARTICLE XXVII

County Business License: It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

ARTICLE XXVIII

Licenses: Contractor hereby represents and warrants that Contractor and any of its subcontractors employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor and its subcontractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subcontractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

ARTICLE XXIX

Administrator: The County Officer or employee with responsibility for administering this Agreement is Lynnan Svensson, MSN, RN, PHN, Public Health Nursing Manager, Health and Human Services Agency, or successor.

ARTICLE XXX

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XXXI

Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XXXII

Venue: Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

ARTICLE XXXIII

No Third Party Beneficiaries: Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this agreement.

ARTICLE XXXIV

Additional Terms and Conditions: Contractor shall be in compliance with the additional terms and conditions as follows, as well as Exhibit B, "FEMA Regulations," attached hereto and incorporated by reference herein, during the term of the Agreement. In the event of a conflict between this ARTICLE XXXIV "Additional Terms and Conditions" and Exhibit B, Exhibit B shall prevail.

- A. Access to Records:** Contractor shall provide access to the federal, state, or local Contractor agency, FEMA, the Controller General of the United States, or any of their duly authorized federal, state, or local representatives to any books, documents, papers and records of Contractor which are directly pertinent to this specific Agreement for the purpose of making an audit, examination, excerpts and transcriptions.
- B. Accounting Systems and Financial Records:** Contractor shall be required to establish and maintain accounting systems and financial records that accurately account for and reflect all federal funds received, including all matching funds from the State, County, and any other local or private organizations. Contractor's records shall reflect the expenditure and accounting of said funds in accordance with all State laws and procedures for expending and accounting for all funds and receivables, as well as meet the financial management standards in 45 CFR Part 92 and in the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." More particularly, Contractors are responsible for complying with the Uniform Grants Guidance and 45 CFR Part 92, and the allowability of the costs covered therein. Contractor must obtain written approval from a member of the HHS Executive Management prior to" the expenditure of any "special" or unusual costs in order to avoid possible disallowances or disputes based on any potential unreasonableness or unallowability of expenditures as detailed under the specific cost principles of the Uniform Grants Guidance. In order to obtain the most current regulations, the user should consult not only the latest version of the CFR, but also the List of (CFR) Sections Affected (LSA) issued in the current month. The Federal Register home page offers links to both the Federal Register and the CFR. Electronic CFR (e-CFR)

versions are available online via the U.S. Government Printing Office (GPO) website. Please note that documents on e-CFR, although updated daily, are unofficial editorial compilations of CFR material and Federal Register amendments and on-line versions may not be the most current version available.

- C. Annual Audit:** Pursuant to the Office of Management and Budget Uniform Grants Guidance, any entity that receives federal funds, as stated in the Uniform Grants Guidance, for the purposes of carrying out federal programs, must complete an annual audit. The funding threshold is aggregate funds from all sources. If requested by County, Contractor shall mail a certified copy of said completed annual audit to County's Health and Human Services Agency at the address listed in ARTICLE XV, "Notice to Parties" within thirty (30) days of Contractor's receipt of same. All adverse audit findings must be documented and included with completed annual audit. Certified evidence of correction(s) of adverse audit findings shall be provided to County at the HHSA address listed in Agreement's ARTICLE XV, "Notice to Parties."
- D. Compliance with All Federal, State, and Local Laws and Regulations:** Contractor shall comply with all federal, state and local laws including, but not limited to, the Americans with Disabilities Act (ADA) of 1990 (42 USC 12101 et. seq.) and California Government Code Sections 11135-11139.5, and all regulations, requirements, and directives pertinent to its operations. Contractor shall abide by manuals, directives and other guidance issued by the State of California. All appropriate manuals and updates shall be available for review or reference by Contractor from the County Health and Human Services Agency.

Contractor shall further comply with all applicable laws relating to wages and hours of employment and occupational safety and to fire, safety, health, and sanitation regulations. Such laws shall include, but not be limited to, the Copeland "Anti-Kickback" Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Clean Air Act and amendments, the Clean Water Act and amendments, and the Federal Water Pollution Control Act.

Contractor further warrants that it has all necessary licenses, permits, notices, approvals, certificates, waivers, and exemptions necessary for the provision of services hereunder and required by the laws and regulations of the United States, the State of California, County of El Dorado, and all other appropriate governmental agencies and shall maintain these throughout the term of the Agreement.

- E. Confidentiality** To ensure the safety of client information, both Parties and their officers, employees, and agents shall comply with WIC section 10850, 45 Code of Federal Regulations (CFR) section 205.50 and all other applicable provisions of law which provide for the confidentiality of records and prohibit records from being opened for examination for any purpose not directly connected with the administration of public social services. Confidential information gained by access to any records from contact with foster children and their caregivers shall be used only in connection with the conduct of the program under this agreement or as otherwise permitted by law.

F. Confidentiality and Information Security Provisions: Contractor shall comply with applicable Federal, State, and local laws and regulations, including but not limited to the Code of Federal Regulations Title 45, parts 160-164, regarding the confidentiality and security of Personally Identifiable Information (PII).

Personally Identifiable Information means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including but not limited to, his or her name, signature, social security number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, or any other financial information.

1. Permitted Uses and Disclosures of PII by Contractor.
 - a. Permitted Uses and Disclosures. Contractor shall develop and maintain an information privacy and security program that includes the implementation of administrative, technical, and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately protect the confidentiality, integrity, and availability of the PII that it creates, receives, maintains, or transmits; and prevent the use or disclosure of PII other than as provided for in this Agreement. Except as otherwise provided in this Agreement, Contractor, may use or disclose PII to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate Federal or State laws or regulations.
 - b. Specific Uses and Disclosures provisions. Except as otherwise indicated in the Agreement, Contractor shall:
 - 1) Use and disclose only PII for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor, provided that such use and disclosures are permitted by law; and
 - 2) Take all reasonable steps to destroy, or arrange for the destruction of a client's records within its custody or control containing personal information that is no longer to be retained by Contractor by (1) shredding, (2) erasing, or (3) otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.
2. Responsibilities of Contractor.
 - a. Contractor agrees to the following safeguards:
 - 1) To prevent use or disclosure of PII other than as provided for by this Agreement. Contractor shall provide County with information concerning such safeguards as County may reasonably request from time to time; and
 - a) Contractor shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only; and
 - b) Contractor shall implement a system to identify appropriate authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), Contractor shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-86 and SANS Institute Password Protection Policy.

- 2) Contractor shall implement the following security controls on each server, workstation, or portable (e.g., laptop computer) computing device that processes or stores confidential, personal, or sensitive data:
 - a) Network based firewall or personal firewall; and
 - b) Continuously updated anti-virus software; and
 - c) Patch-management process including installation of all operating system/software vendor security patches.
- 3) Mitigation of Harmful Effects. Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PII by Contractor or its subcontractors.
- 4) Agents and Subcontractors of Contractor. The same restrictions and conditions that apply through this Agreement to Contractor, shall also apply to Contractor's subcontractors and agents.
- 5) Notification of Electronic Breach or Improper Disclosure. During the term of this Agreement, Contractor shall notify County immediately upon discovery of any breach of PII or data, where the information or data are reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to County Privacy Officer, within two (2) business days of discovery, at (530) 621-5852. Contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Contractor shall investigate such breach and provide a written report of the investigation to County Privacy Officer, postmarked within thirty (30) working days of the discovery of the breach.

G. Conflict Prevention and Resolution: The terms of this Agreement shall control over any conflicting terms in any referenced document, except to the extent that the end result would constitute a violation of Federal or State law. In such circumstances, and only to the extent the conflict exists, this Agreement shall be considered the controlling document.

H. Continuous Operation: Contractor shall operate continuously throughout the term of this Agreement with at least the minimum number and type of staff required to meet applicable Federal, State, and County requirements, and which are necessary for the provision of services hereunder.

I. Debarment and Suspension Certification: By signing this Agreement, Contractor agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 45 CFR 76, 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000, and Contractor further certifies to the best of its knowledge and belief that it and its principals or affiliates or any sub-contractor utilized under the Agreement:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency.
2. Have not within a three (3)-year period preceding this application/proposal/Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a

public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification of records, making false statements, or receiving stolen property.

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in the above Paragraph B.
4. Have not within a three (3)-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.
5. Shall not knowingly enter in to any lower tier or subrecipient covered transaction with any person(s) who are proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4) or are debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transactions, unless authorized by the state.
6. Shall include a clause titled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or subrecipient covered transactions in accordance with 45 CFR Part 76.

If Contractor is unable to certify to any of the statements in this certification, Contractor shall submit an explanation in writing to County.

The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549 (<http://www.archives.gov/federal-register/codification/executive-order/12549.html>).

If Contractor knowingly violates this certification, in addition to other remedies available to the federal and state governments, County may immediately terminate this Agreement for cause or default.

- J. Drug-Free Workplace:** Contractor agrees to maintain a drug-free workplace and remain in compliance with the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. Chapter 10) and the California Drug-Free Workplace Act of 2000 (Government Code Section 8350 et seq.) and any subsequent amendments to either Act thereto. A “drug free workplace” means the site(s) for the performance of work done by Contractor at which Contractor and employees of Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of any controlled substance. A list of controlled substances can be found in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in Regulation 21 Code of Federal Regulations (CFR) 1308.11 – 1308.15.
- K. Fingerprinting:** Pursuant to California Penal Code Section 11105.3(a), “Notwithstanding any other law, a human resource agency or an employer may request from the Department of Justice records of all convictions or any arrest pending adjudication involving the offenses specified in subdivision (1) of Section 15660 of the Welfare and Institutions Code of a person who applies for a license, employment, or volunteer position, in which he or she would have supervisory or disciplinary power over a minor or any person under his or her care.” Therefore, Contractor warrants that its employees, subcontractors, assignees, volunteers and any other persons who, while providing services under this Agreement, have or may have supervisory or disciplinary power over any person or minor under his or her care, have been fingerprinted in

order to determine whether they have a criminal history that would compromise the safety of persons or minors with whom they have contact in the course of provision of services under this Agreement. Contractor further warrants that said employees, subcontractors, assignees, volunteers, and other persons have been cleared by Contractor to perform the services described in this Agreement. All fingerprinting services shall be at Contractor's sole expense. More specifically, Contractor agrees that:

1. Each applicant for paid or volunteer employment by Contractor who shall or may have a supervisory or disciplinary power over a minor or any person under his or her care shall be fingerprinted in order to determine whether they have a criminal history, which would compromise the safety of such minor, or person(s) under his or her care. All fingerprinting shall be at Contractor's sole expense.
2. The fingerprinting process as set forth above shall be completed and the results of the process shall be obtained before any of Contractor's employees, subcontractors, assignees, or volunteers are assigned or permitted to work with any minor or person referred to Contractor by County. Alternatively, Contractor may set a hire date prior to obtaining fingerprinting results contingent on the applicant certifying that: (1) his or her employment application truthfully and completely discloses whether he or she has ever been convicted of a felony or misdemeanor or been on parole or probation and (2) that the applicant understands that a background check shall be conducted and that he or she shall be immediately dismissed from employment if he or she has failed to provide information regarding convictions, has provided incomplete information regarding convictions, has omitted information regarding convictions or if the fingerprinting results reveal any conviction incompatible with employment with Contractor.
3. Contractor shall maintain, and make immediately available to County upon request, a written fingerprint certification for each employee, volunteer, or applicant for paid or volunteer employment for whom fingerprinting is required as detailed above. Such certification shall state that the individual has been fingerprinted, shall provide the date of said fingerprinting, and shall state whether the process has disclosed any criminal history of the individual, which may compromise the safety of minors or other persons with whom that individual has contact. Fingerprint information received from Department of Justice (DOJ) by Contractor shall be retained or disposed of pursuant to current DOJ directives.

L. HIPAA Compliance: As a condition of Contractor performing services for the County of El Dorado, Contractor agrees to fully comply with all terms and conditions of County's Business Associate Agreement, attached hereto as Exhibit C (incorporated herein and made by reference a part hereof).

M. Lobbying Certification: Contractor, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any

cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, Contractor shall complete and submit Standard Form SF-LLL, OMB Number 0348-0046 "Disclosure of Lobbying Activities" in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

- N. Mandated Reporter Requirements:** Contractor acknowledges and agrees to comply with mandated reporter requirements pursuant to the provisions of Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the California Penal Code, also known as "The Child Abuse and Neglect Reporting Act," and the Welfare and Institutions Code Section 15630 *et seq.*, related to elder and dependent adults, as applicable.
- O. Release of Information:** Contractor shall ensure that the County of El Dorado Health and Human Services Agency is included as a receiving party on all Release of Information forms used in the performance of services under this Agreement.
- P. Transfer of Records:** In the event that Contractor ceases operation, all physical and electronic files that are subject to audit shall be transferred to County for proper storage of physical records and electronic data. Contractor shall notify County of impending closure as soon as such closure has been determined, and provide County with a complete list of records in its possession pertaining to County Clients and operational costs under this Agreement. County shall promptly advise Contractor which records are to be transferred to the custody of County. Contractor shall properly destroy records not transferred to custody of County, and Contractor shall provide documentation of proper destruction of all such records to County.
- Q. Waivers:** Failure of County to enforce any provision of this Agreement shall in no event be considered a waiver of any part of such provision or any other provision contained herein. No waiver by County of any breach or default by Contractor shall operate as a waiver of any succeeding breach of the same terms in the Agreement or other default or breach of any of Contractor's obligations under the Agreement. No waiver shall have any effect unless it is specific, irrevocable, and in writing.

- R. Contractor acknowledges that FEMA financial assistance will be used to fund a portion of this Agreement. Contractor shall comply with all applicable federal law; regulations; executive orders; and FEMA policies, procedures, and directives.
- S. The federal government is not a party to this Agreement and is not subject to any obligations or liabilities to County, Contractor, or any other party pertaining to any matter resulting from this Agreement.

ARTICLE XXXV

Counterparts: This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

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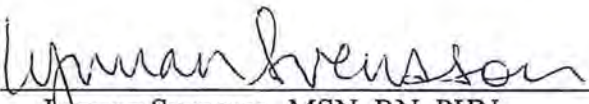
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ARTICLE XXXVI

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

Requesting Contract Administrator Concurrence:

By: 
Lynnman Svensson, MSN, RN, PHN
Public Health Nursing Manager
Health and Human Services Agency

Dated: 8/19/2020

Requesting Department Head Concurrence:

By: 
Donald Semon
Director
Health and Human Services Agency

Dated: 8-20-20

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Services #5061 on the dates indicated below.

-- COUNTY OF EL DORADO --

Dated: 8-25-2020

By: Brian K. Veerkamp
Brian K. Veerkamp, Chair
Board of Supervisors
"County"

ATTEST:
Kim Dawson
Clerk of the Board of Supervisors

By: Kim Dawson
Deputy Clerk

Dated: 8-25-2020

-- CONTRACTOR --

MAXIM HEALTHCARE STAFFING SERVICES, INC.
A Maryland Corporation

By: Andrea Torres
Andrea Torres, Assistant Controller
"Contractor"

Dated: 8/20/2020

EXHIBIT A
VENDOR ASSURANCE OF COMPLIANCE WITH
THE COUNTY OF EL DORADO HEALTH AND HUMAN SERVICES AGENCY
NONDISCRIMINATION IN STATE
AND FEDERALLY ASSISTED PROGRAMS

NAME OF VENDOR/RECIPIENT: Maxim Healthcare Staffing Services, Inc.

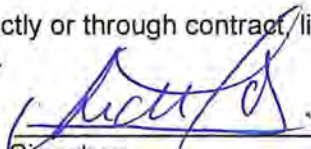
HEREBY AGREES THAT it will comply with Title VI and VII of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 as amended; the Food Stamp Act of 1977, as amended and in particular section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code Section 51 et seq., as amended; California Government Code section 11135-11139.5, as amended; California Government Code section 12940 (c), (h) (1), (i), and (j); California Government Code section 4450; Title 22, California Code of Regulations section 98000 – 98413; Title 24 of the California Code of Regulations, Section 3105A(e); the Dymally-Alatorre Bilingual Services Act (California Government Code Section 7290-7299.8); Section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable federal and state laws, as well as their implementing regulations [including 45 Code of Federal Regulations (CFR) Parts 80, 84, and 91, 7 CFR Part 15, and 28 CFR Part 42], by ensuring that employment practices and the administration of public assistance and social services programs are nondiscriminatory, to the effect that no person shall because of ethnic group identification, age, sex, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed or political belief be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving federal or state financial assistance; and HEREBY GIVE ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal and state assistance; and THE VENDOR/RECIPIENT HEREBY GIVES ASSURANCE THAT administrative methods/procedures which have the effect of subjecting individuals to discrimination or defeating the objectives of the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Chapter 21, will be prohibited.

BY ACCEPTING THIS ASSURANCE, the vendor/recipient agrees to compile data, maintain records and submit reports as required, to permit effective enforcement of the aforementioned laws, rules and regulations and permit authorized CDSS and/or federal government personnel, during normal working hours, to review such records, books and accounts as needed to ascertain compliance. If there are any violations of this assurance, CDSS shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code section 10605, or Government Code section 11135-11139.5, or any other laws, or the issue may be referred to the appropriate federal agency for further compliance action and enforcement of this assurance.

THIS ASSURANCE is binding on the vendor/recipient directly or through contract, license, or other provider services, as long as it receives federal or state assistance.

8/20/2020
Date
1050 Fulton Ave Suite 235
Address of vendor/recipient
Sacramento, CA 95825


Signature

(08/13/01)

EXHIBIT B – FEMA REQUIREMENTS

A. Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

B. Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

C. Debarment and Suspension

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

EXHIBIT B – FEMA REQUIREMENTS

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

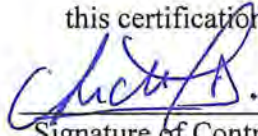
Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Maxim Healthcare Staffing Services, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.



Signature of Contractor's
Authorized Official

Andrea Torres, Asst. Controller

Name and Title of Contractor's
Authorized Official

8/20/2020

Date

EXHIBIT B – FEMA REQUIREMENTS

D. Access to Records.

- (1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

E. Program Fraud and False or Fraudulent Statements or Related Acts: The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

Exhibit C

HIPAA Business Associate Agreement

This Business Associate Agreement is made part of the base contract (“Underlying Agreement”) to which it is attached, as of the date of commencement of the term of the Underlying Agreement (the “Effective Date”).

RECITALS

WHEREAS, County and Contractor (hereinafter referred to as Business Associate (“BA”) entered into the Underlying Agreement pursuant to which BA provides services to County, and in conjunction with the provision of such services, certain Protected Health Information (“PHI”) and Electronic Protected Health Information (“EPHI”) may be disclosed to BA for the purposes of carrying out its obligations under the Underlying Agreement; and

WHEREAS, the County and BA intend to protect the privacy and provide for the security of PHI and EPHI disclosed to BA pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act, Pub. L. No. 104-191 of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the “HITECH” Act), and regulation promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws as may be amended from time to time; and

WHEREAS, County is a Covered Entity, as defined in the Privacy Rule and Security Rule, including but not limited to 45 CFR Section 160.103 ; and

WHEREAS, BA, when a recipient of PHI from County, is a Business Associate as defined in the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to 42 USC Section 17938 and 45 CFR Section 160.103; and

WHEREAS, “Individual” shall have the same meaning as the term “individual” in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.202(g);

WHEREAS, “Breach” shall have the meaning given to such term under the HITECH Act under 42 USC Section 17921; and

WHEREAS, “Unsecured PHI” shall have the meaning to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to 42 USC Section 17932(h).

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

1. **Definitions**. Unless otherwise provided in this Business Associate Agreement, capitalized terms shall have the same meanings as set forth in the Privacy Rule, as may be amended from time to time.

2. Scope of Use and Disclosure by BA of County Disclosed PHI

- A. BA shall not disclose PHI except for the purposes of performing BA's obligations under the Underlying Agreement. Further, BA shall not use PHI in any manner that would constitute a violation of the minimum necessary policies and procedures of the County, Privacy Rule, Security Rule, or the HITECH Act.
- B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Business Associate Agreement or required by law, BA may:
- (1) use the PHI in its possession for its proper management and administration and to fulfill any legal obligations.
 - (2) disclose the PHI in its possession to a third party for the purpose of BA's proper management and administration or to fulfill any legal responsibilities of BA, or as required by law
 - (3) disclose PHI as necessary for BA's operations only if:
 - (a) prior to making a disclosure to a third party, BA will obtain written assurances from such third party including:
 - (i) to hold such PHI in confidence and use or further disclose it only for the purpose of which BA disclosed it to the third party, or as required by law; and,
 - (ii) the third party will immediately notify BA of any breaches of confidentiality of PHI to extent it has obtained knowledge of such breach.
 - (4) aggregate the PHI and/or aggregate the PHI with that of other data for the purpose of providing County with data analyses related to the Underlying Agreement, or any other purpose, financial or otherwise, as requested by County.
 - (5) not disclose PHI disclosed to BA by County not authorized by the Underlying Agreement or this Business Associate Agreement without patient authorization or de-identification of the PHI as authorized in writing by County.
 - (6) de-identify any and all PHI of County received by BA under this Business Associate Agreement provided that the de-identification conforms to the requirements of the Privacy Rule, 45 CFR and does not preclude timely payment and/or claims processing and receipt.
- C. BA agrees that it will neither use nor disclose PHI it receives from County, or from another business associate of County, except as permitted or required by this Business Associate Agreement, or as required by law, or as otherwise permitted by law.

3. Obligations of BA. In connection with its use of PHI disclosed by County to BA, BA agrees to:
 - A. Implement appropriate administrative, technical, and physical safeguards as are necessary to prevent use or disclosure of PHI other than as permitted by the Agreement that reasonably and appropriately protects the confidentiality, integrity, and availability of the PHI in accordance with 45 CFR 164.308, 164.310, 164.312, and 164.504(e)(2). BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule.
 - B. Report to County within 24 hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take prompt corrective action to cure any such deficiencies and any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
 - C. Report to County in writing of any access, use or disclosure of PHI not permitted by the Underlying Agreement and this Business Associate Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than five (5) days. To the extent the Breach is solely a result of BA's failure to implement reasonable and appropriate safeguards as required by law, and not due in whole or part to the acts or omissions of the County, BA may be required to reimburse the County for notifications required under 45 CFR 164.404 and CFR 164.406.
 - D. BA shall not use or disclose PHI for fundraising or marketing purposes. BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. BA shall not directly or indirectly receive remuneration in exchange of PHI, except with the prior written consent of the County and as permitted by the HITECH Act, 42 USC Section 17935(d)(2); however, this prohibition shall not affect payment by County to BA for services provided pursuant to the Agreement.
4. PHI Access, Amendment and Disclosure Accounting. BA agrees to:
 - A. Provide access, at the request of County, within five (5) days, to PHI in a Designated Record Set, to the County, or to an Individual as directed by the County. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable County to fulfill its obligations under the HITECH Act, including, but not limited to, 42 USC Section 17935(e).

- B. Within ten (10) days of receipt of a request from County, incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule in the event that the PHI in BA's possession constitutes a Designated Record Set.
 - C. To assist the County in meeting its disclosure accounting under HIPAA:
 - (1) BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosure from Electronic Health Record for treatment, payment, or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At the minimum, the information collected shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if know, the address of the entity or person; (iii) a brief description of PHI disclosed and; (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
 - (2) Within in 30 days of notice by the County, BA agrees to provide to County information collected in accordance with this section to permit the County to respond to a request by an Individual for an accounting of disclosures of PHI.
 - D. Make available to the County, or to the Secretary of Health and Human Services (the "Secretary") , BA's internal practices, books and records relating to the use of and disclosure of PHI for purposes of determining BA's compliance with the Privacy Rule, subject to any applicable legal restrictions. BA shall provide County a copy of any PHI that BA provides to the Secretary concurrently with providing such information to the Secretary.
5. Obligations of County.
- A. County agrees that it will promptly notify BA in writing of any restrictions on the use and disclosure of PHI agreed to by County that may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.
 - B. County agrees that it will promptly notify BA in writing of any changes in, or revocation of, permission by any Individual to use or disclose PHI, if such changes or revocation may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.
 - C. County agrees that it will promptly notify BA in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect BA's use of disclosure of PHI.

- D. County shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by County, except as may be expressly permitted by the Privacy Rule.
- E. County will obtain any authorizations necessary for the use or disclosure of PHI, so that BA can perform its obligations under this Business Associate Agreement and/or the Underlying Agreement.

6. Term and Termination.

- A. Term. This Business Associate Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement, as provided therein when all PHI provided by the County to BA, or created or received by BA on behalf of the County, is destroyed or returned to the County, or, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- B. Termination for Cause. Upon the County's knowledge of a material breach by the BA, the County shall either:
 - (1) Provide an opportunity for the BA to cure the breach or end the violation and terminate this Agreement if the BA does not cure the breach or end the violation within the time specified by the County.
 - (2) Immediately terminate this Agreement if the BA has breached a material term of this Agreement and cure is not possible; or
 - (3) If neither termination nor cures are feasible, the County shall report the violation to the Secretary.
- C. Effect of Termination.
 - (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, the BA shall, at the option of County, return or destroy all PHI that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI.
 - (2) In the event that the County determines that returning or destroying the PHI is infeasible, BA shall provide to the County notification of the conditions that make return or destruction infeasible, and . BA shall extend the protections of this Agreement to such PHI to those purposes that make the return or destruction infeasible, for so long as the BA maintains such PHI. If County elects destruction of the PHI, BA shall certify in writing to County that such PHI has been destroyed.

7. Indemnity

- A. BA shall indemnify and hold harmless all Agencies, Districts, Special Districts and Departments of the County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (collectively "County") from any liability whatsoever, based or asserted upon any services of BA, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to BA's performance under this Business Associate Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever including fines, penalties or any other costs and resulting from any reason whatsoever to the extent arising from the performance of BA, its officers, agents, employees, subcontractors, agents or representatives under this Business Associate Agreement. BA 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 against the County 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 BA, BA shall, at its sole cost, have the right to use counsel of its 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 BA's indemnification of County as set forth herein. BA's obligation to defend, indemnify and hold harmless County shall be subject to County having given BA 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 BA's expense, for the defense or settlement thereof. BA's obligation hereunder shall be satisfied when BA 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 Business Associate Agreement shall in no way limit or circumscribe BA's obligations to indemnify and hold harmless the County herein from third party claims arising from the issues of this Business Associate Agreement.
- D. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code Section 2782. Such interpretation shall not relieve the BA from indemnifying the 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 Business Associate Agreement, this indemnification shall only apply to the subject issues included within this Business Associate Agreement.

8. Amendment The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.
9. Survival The respective rights and obligations of this Business Associate Agreement shall survive the termination or expiration of this Business Associate Agreement.
10. Regulatory References A reference in this Business Associate Agreement to a section in the Privacy Rule means the section as in effect or as amended.
11. Conflicts Any ambiguity in this Business Associate Agreement and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.