

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and BIT California LLC dba Document Fulfillment Services (DFS) with an address at 2930 Ramona Ave., #100, Sacramento, CA 95826 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, on March 29, 2016, Sacramento County Department of Human Assistance issued a Request for Proposal soliciting proposals to provide CalWIN Client Correspondence Printing and Mailing services;

WHEREAS, on April 5, 2016 the COUNTY was authorized to partner with the participating CalWIN Consortium counties in Sacramento County Department of Human Assistance's competitive procurement process for the purpose to award a new contract for CalWORKs Information Network (CalWIN) system Printing and Mailing Services;

WHEREAS, on September 16, 2016, Sacramento County Department of Human Assistance (DHA) selected CONTRACTOR to provide CalWIN Client Correspondence Printing and Mailing services;

WHEREAS, on June 6, 2017, DHA issued a new contract with CONTRACTOR effective September 1, 2017 through June 30, 2022 including an option to renew the contract for an additional five (5) years through June 30, 2027; and COUNTY shall follow suit as a result of participating on DHA's competitive procurement process;

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

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

1. DESIGNATED REPRESENTATIVE

Rene Garcia, CalWIN Operations Manager at phone number (805) 681-4540 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Eric Bambury, President/CEO at phone number (916) 374-9002 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by email, personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY:	Rene Garcia, CalWIN Operations Manager 234 Camino Del Remedio, Santa Barbara, CA 93110 FAX: (805) 681-4403
To CONTRACTOR:	Eric Bambury, President/CEO 2930 Ramona Ave. #100, Sacramento, CA 95826 FAX: (916) 374-9011

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. TERM

CONTRACTOR shall commence performance on **February 1, 2018** and end performance upon completion, but no later than **June 30, 2022** unless otherwise directed by COUNTY or unless earlier terminated. The COUNTY at the end of the contract term has an option to renew for one (1) additional five (5) year term, without re-bidding. A renewal determination will be contingent upon CONTRACTOR's satisfactory achievement of agreed upon performance measures.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

7. STANDARD OF PERFORMANCE

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or

omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in

connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

13. COUNTY PROPERTY AND INFORMATION

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

14. RECORDS, AUDIT, AND REVIEW

CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

19. TERMINATION

- A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.
1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
 2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
 3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall

furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

20. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT

No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

25. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

26. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

27. COMPLIANCE WITH LAW

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

28. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

29. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

33. STATE ENERGY CONSERVATION PLAN

CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

34. PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING

A. CONTRACTOR, by signing this Agreement, hereby certifies to the best of his, her or its knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONTRACTOR to any person for influencing or attempting to influence an officer or employee of any state or

federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or 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 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 California State Standard Form-LLL, "Disclosure Form to Report Lobbying," to the COUNTY and in accordance with the instructions found therein.

B. 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 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.

C. CONTRACTOR also agrees by signing this document that he, she or it shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly

35. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

CONTRACTOR shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q.) and pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). CONTRACTOR shall promptly disclose, in writing, to the COUNTY office, to the Federal Awarding Agency, and to the Regional Office of the Environmental Protection Agency (EPA), whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the CONTRACTOR has credible evidence that a principal, employee, agent, or subcontractor of the CONTRACTOR has committed a violation of the Clean Air Act (42 U.S.C. 7401-7671q.) or the Federal Water Pollution Control Act (33 U.S.C. 1251-1387).

36. BUSINESS ASSOCIATE

The parties agree to the terms and conditions set forth in Exhibit D - HIPAA Business Associate Agreement (BAA), attached hereto and incorporated herein by reference.

37. SUBAWARD (ASSIGNABILITY, SUBCONTRACT)

CONTRACTOR shall comply with the requirements of 2 CFR Part 300 which is hereby incorporated by reference in this Agreement.

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Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **BIT California LLC dba Document Fulfillment Services**.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
Chair, Board of Supervisors

Date: _____

RECOMMENDED FOR APPROVAL:

Social Services

CONTRACTOR:

BIT California LLC dba Document Fulfillment Services

By: _____
Department Head

By: _____
Authorized Representative

Name: Eric Bambury

Title: President/CEO

APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Theodore A. Fallati, CPA
Auditor-Controller

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED AS TO FORM:

Risk Management

By: _____
Risk Management

EXHIBIT A

SCOPE OF SERVICES

I. SERVICE LOCATION

Street Address: 2930 Ramona Avenue, Suite 100
City & Zip Code: Sacramento 95826

All site address changes must be reported to COUNTY 90 days prior to the change.

II. PROGRAM DESCRIPTION

The CONTRACTOR will provide CalWORKs Information Network (CalWIN) client correspondence printing and mailing services for the COUNTY, as well as miscellaneous jobs as requested by the COUNTY.

III. DESCRIPTION OF SERVICES

The Welfare Client Data System (WCDS) is a consortium of eighteen (18) California counties that share an automated system that determines public assistance eligibility, computes and issues benefits, and tracks the provision of public social services. WCDS developed the primary business application, CalWIN, for the member counties.

Santa Barbara County Department of Social Services (DSS) and fifteen (15) of the eighteen (18) counties currently contract with the same print vendor. Two counties presently act as their own print vendor.

CalWIN is the primary business application utilized by the DSS and seventeen (17) additional California counties. The processing for all of the CalWIN counties is integrated and run by the current CalWIN vendor.

There are various types of periodic client correspondence that will be printed and mailed out to clients, under the Agreement. CONTRACTOR is to use the most economic and efficient process to print and mail correspondence.

A daily batch cycle process is normally run five nights a week, Monday – Friday, and a merged output file for each county is produced the following day. Current CalWIN vendor transmits the data electronically by 6:00 am to the CONTRACTOR by secure Shell File Transfer Protocol (SFTP). An additional batch process may occasionally be run on a weekend to process special jobs. These special jobs are also sent by SFTP. In addition to the daily process jobs, a monthly job is run approximately the third week of the month to produce periodic reports and sent by secure SFTP.

Requirements

- A. File types received as source files for the duration of this contract include, but are not limited to, Printer Control Language (PCL)5 and Portable Document Format (PDF). If a file format is requested outside those mentioned prior, COUNTY will work with CONTRACTOR to determine a mutually appropriate implementation timeline.
- B. The files CONTRACTOR receives are typically pre-formatted. COUNTY understands that

CONTRACTOR needs to modify each piece to insert objects on the document to automate the mailing process. For example, adding barcodes for tracking, key line information for internal quality control.

- C. Documents may be submitted to CONTRACTOR as either simplex (printing on one side) or duplex (printing on both sides). Duplex is defined as laser printing (imaging) done to both sides of a sheet. Duplex printing implies two images per sheet passing through the printer, even if toner is only applied to one side of the sheet. Duplex and simplex printing cannot be mixed. Simplex is defined as laser printing (imaging) done on the front side of a sheet. Simplex and duplex printing cannot be mixed.
- D. CONTRACTOR will utilize materials that are most efficient for mail automation and postage discounts based on job type. CONTRACTOR will create a daily summary file of printed correspondence. The file shall contain information as selected by the COUNTY from the metadata in the batch print file. The file shall be in a mutually agreed upon file format and be sent to the COUNTY via SFTP or placed on CONTRACTOR's secure SFTP site for pickup by the COUNTY.
- E. CONTRACTOR or COUNTY may update transmission methods with updates in technology during the contract period. These changes must be communicated with the CONTRACTOR or COUNTY as quickly as possible, preferably prior to, but no later than 10 business days after changes occur.
- F. CONTRACTOR shall charge the correct postage amount and also apply the date of mailing to each mail piece based on the weight and agreed upon United States Postal Service (USPS) automation rate category. USPS will periodically change postage amounts and automation rate categories; upon USPS implementation dates, CONTRACTOR shall apply the new postage amounts to each mail piece based on the weight and agreed upon USPS automation rate categories.

CONTRACTOR shall apply postage using a meter or permit and apply the date of mailing on the envelope; CONTRACTOR shall be reimbursed for meter or permit postage mail at the 3-digit, Automated Area Distribution Center (AADC) automation rate, or similar rate. If USPS postage rate categories change in the future, CONTRACTOR and COUNTY will work together to determine the closest postage rate category to the current category. Postal permit numbers supplied by the individual COUNTY are used for all return envelopes.

The most current automation postage rates at located are <https://pe.usps.com>. It is understood that as USPS postal rates change, the postage rates for this Agreement will also change and will be located at the referenced website.

- G. Inserts
 - i. **Offline Inserts** shall be defined as correspondence previously printed and folded with the intention of being placed in an envelope as the completed product is being inserted. This will be charged as an insert by machine charge.
 - ii. **Offline Pre-Printed Inserts** shall be defined where CONTRACTOR performs the printing of the insert prior, and separately inserts the document into the completed product. This will be charged at the applicable per image pricing for printing, plus the "insert by machine" fee as referenced in Exhibit B-1.
 - iii. **Inline Inserts** shall be defined as correspondence that is printed Inline with, and as a part of, the CalWIN documents. This will be charged the applicable per image pricing for printing only.
 - iv. **Minimum Requirement for Inserts**

Most correspondence will be printed on 8.5" X 11" plain white 20# paper stock. The text may be of varying length, printed on both sides of the paper, and possibly ten or more pages. Page size can be no smaller than 8.5" X 11" and no larger than 8.5" by 14". A standard piece (two pages, mailing and return envelopes), without additional inserts, should weigh only slightly more than 1/2-ounce. Documents of varying sizes may need to be inserted into the same envelope. Paper should be close to 20# stock, OCR readable with recycled content. "Printed on recycled paper" shall be printed on all recycled-content paper and envelopes. Mailing envelopes should include pre-printed return address, postal indicia and glassine address windows. COUNTY specified TDD/TTY phone number shall be visible on the front side of the outgoing envelope whether it is printed on the envelope itself or shows through the glassine address window.

There are also once monthly print jobs that create renewal packets for several Social Services programs. These packets may contain between 50 and 100 images each. These are usually mailed in a 9"x12" envelope with a 6.5"x 9.5" return envelope.

- H. The price per image for printing and mailing for each year includes the cost of materials (paper, envelopes, etc.) and cost of processing (pickup/courier service, receiving and batching data, printing, folding, inserting, presorting, delivery to the USPS, etc.). The price per image will equal to processing and printing one-side of a printed page, and one (1) each outgoing and remit envelope per completed mail piece. The price per image will be subjected to sales tax at the rate where it is produced.
- I. Service Levels - Jobs are to be broken into three (3) Service Level Categories
 - a. Daily – Files of this type must be received for mailing services by CONTRACTOR no later than 6 AM Pacific Time for same day mailing.
 - b. Monthly or Periodic – The COUNTY may, from time to time, submit print files for processing but expect CONTRACTOR to refrain from mailing until a date in the future.
 - c. Special – These jobs are for any type of mailing not defined above. The requests for this type of job will be made in writing from the COUNTY to CONTRACTOR. CONTRACTOR will attach the request as source documentation when invoicing.
 - d. COUNTY understands that mailing does not occur when the United States Post Office is closed, nor is mailing performed on any federal holidays.
- J. Quality control measures
Quality Control must be inherent in the process. Duplicated, missing and misprinted documents and inserts and other errors must be identified and remedied by CONTRACTOR before mailing. CONTRACTOR shall submit mail in the hands of the USPS that night for next day mailing. Any errors or variation must be reported to the COUNTY immediately. CONTRACTOR shall provide a report including the date and time items were mailed, the unique batch identifier, the number of documents printed, items mailed, inserts included, and postage used will be sent to COUNTY daily at the completion of the process.
- K. Automated Processes and Tracking
Errors not remedied by CONTRACTOR's quality control, involving 100 or more pieces from a single mailing, will incur a penalty credit in favor of the COUNTY in the amount of \$.05 per letter plus reimbursement of any printing and postage paid by the COUNTY for the subject pieces. This will include client correspondence mailed after the target mailing date.

CONTRACTOR must be USPS Certified Address Standardization Software (CASS) certified to ensure address cleansing and correction capability, and comply with the Intelligent Mail Barcode requirements. Letters shall be bar-coded and sorted for the best carrier route and delivery point available to maximize postage rate discounts.

L. P.O. Box 1532

CONTRACTOR will process all batch file processes related to P.O. Box 1532 electronically so that no physical printing and mailing products, and associated costs, are created. CONTRACTOR will charge a per PDF page cost to create PDF copies of P.O. Box 1532-related client correspondence and collateral documents with corresponding indexing data by day and by addressee.

M. Miscellaneous

COUNTY may request additional printing, mailing, and document processing jobs not related to CalWIN projects. These requests will be made in writing by the COUNTY to the CONTRACTOR and shall be subject to the requirements and not-to-exceed cost limitation of Exhibit B and schedule of fees set forth in Exhibit B-1. The CONTRACTOR will include these written requests when invoicing for the services, based on agreed upon costs.

N. Meeting Industry Standards

CONTRACTOR shall meet related industry standards when providing services outlined in this scope of services in the following areas, but not limited to, receiving data and processing for USPS, mail piece specifications, letter size and weight of standard letter with envelopes, and reading and processing of the current CalWIN vendor original source files.

IV. RECORD-KEEPING AND REPORTING

A. CONTRACTOR will provide Mailing Report - as back-up information to support the billing in the invoices.

- i. Additional documentation supporting all expenses to COUNTY are required to be presented in a mutually agreed upon file format and shall include, but is not limited to, reconciled counts of the following by work order, by day, and by month:
 - a. Printed images
 - b. Mail pieces mailed
 - c. Electronically processed documents (e.g., P.O. Box 1532)
 - d. Added materials for Redetermination/Recertification/Renewal (RRR) packets
 1. Medi-Cal recertification (RRR) packets
 2. CalWORKS recertification (RRR) packets
 3. CalFresh recertification (RRR) packets
 - e. Voter registration forms
 - f. Other collateral material such as Notice of Language inserts, color flyers, etc.
- ii. Additional documentation supporting all postage-related expenses to COUNTY are required to be presented in a mutually agreed upon file format and shall include, but is not limited to, the following detail for each mail piece by work order, by day, and by month:
 - a. Type of postage as indicated by the current USPS Price List
 - b. Rate per piece
 - c. Weight
 - d. Pieces/Quantity
 - e. Total Charged Amount.

- B. CONTRACTOR's records relating to this Agreement will be made available upon request for inspection by the COUNTY.
- C. CONTRACTOR shall maintain five years of back-up material for all expenses submitted for reimbursement on the electronic claim form.
- D. CONTRACTOR shall retain source files and output data for 90 days from file submission from the current CalWIN vendor.

V. EVALUATION

COUNTY may at any time, evaluate the CONTRACTOR and services provided. Adequate notice shall be given to CONTRACTOR of such action, and CONTRACTOR shall be given opportunities to participate and respond in the evaluation process.

VI. MONITORING

- A. COUNTY shall monitor the services provided and the adequacy of CONTRACTOR's performance in the manner which COUNTY deems most effective. CONTRACTOR shall cooperate with COUNTY in such monitoring.
- B. CONTRACTOR shall prepare and submit to COUNTY reports in the form and manner prescribed by COUNTY. Such reports may be subject to audit by COUNTY or COUNTY's designated auditors as required by federal regulation or local requirements.

VII. CONFIDENTIALITY

- A. PII is Personally Identifiable Information, information directly obtained in the course of performing an administrative function on behalf of a welfare program, such as determining eligibility, that can be used alone, or in conjunction with any other information, to identify a specific individual. PII includes any information that can be used to search for or identify individuals, or can be used to access their files, such as name, address, social security number, date of birth, driver's license number or identification number. PII may be electronic or on paper.
- B. As required by state and federal laws and regulations, including California Welfare and Institutions Code Section 10850 and Division 19-000 of the State Department of Social Services manual of Policies and Procedures, CONTRACTOR shall safeguard PII and not publish or disclose, use or permit, or cause to be published, disclosed, or used, any PII pertaining to an applicant or recipient for any purpose not directly connected with the administration of public social services. Access to this PII is restricted to only those staff who need the PII to perform their official duties as specified in this Agreement.
- C. CONTRACTOR must use all reasonable measures to prevent non-authorized personnel and visitors from accessing, controlling, or viewing this PII.

- D. CONTRACTOR staff are not to access their own public assistance records, nor the records of friends, family, acquaintances, co-workers, or tenants for any reason.
- E. CONTRACTOR agrees to inform all of its employees, agents, subcontractors and partners of the above provisions and that knowing and intentional violation of the provisions of said state law referenced in Section VII B is a misdemeanor.
- F. CONTRACTOR will have employees, subcontractors and partners who will have access to PII read and sign the County of Santa Barbara DSS Contractor Acknowledgment and Confidentiality Agreement (Exhibit E) before allowing such persons access to PII. This must be done upon execution of this Agreement and upon the hiring of new employees, agents, subcontractors and partners. The completed form is to be returned to the DESIGNATED REPRESENTATIVE. COUNTY is to be notified within 15 days of the end of employment of any employee who has previously completed and submitted Exhibit E. In addition, the form will need to be completed annually for multi-year contracts.

VIII. SECURITY

- A. CONTRACTOR staff for whom CalWIN accounts, other COUNTY accounts, and/or unescorted access to any COUNTY buildings are requested must be 18 years or older and must first comply by signing the County of Santa Barbara DSS Contractor Acknowledgment and Confidentiality Agreement (Exhibit E).

These forms must be submitted annually for multi-year contracts. CONTRACTOR must notify DESIGNATED REPRESENTATIVE within 15 days of the end of employment for all employees who had CalWIN access, access to other COUNTY Accounts and/or unescorted access to any COUNTY buildings.

- B. CONTRACTOR shall ensure that data containing PII is used and stored in an area that is physically safe from access by unauthorized persons during working hours and non-working hours. PII in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk, office or other secured area. Unattended means that information is not being observed by a person authorized to access the information. Such data must not be removed from the premises except for routine business purposes. Such data shall not be left unattended at any time in vehicles or airplanes and in checked baggage on commercial airplanes.
- C. CONTRACTOR shall dispose of paper documents containing PII through confidential means, such as cross cut shredding and pulverizing.
- D. CONTRACTOR shall ensure that faxes containing PII shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- E. CONTRACTOR shall ensure that mailings containing PII shall be sealed and secured from damage or inappropriate viewing of PII to the extent possible. Mailings that include 500 or more individually identifiable records containing PII in a single package shall be sent using a tracked mailing method that includes verification of delivery and receipt.

- F. CONTRACTOR shall ensure that only the minimum amount of PII is downloaded onto systems, electronic equipment, and media, such as computers, laptops, notebooks, hard drives, flash drives, CDs/DVDs, when absolutely necessary for current business purposes.
- G. CONTRACTOR shall ensure that when data containing PII is no longer legally needed, it must be wiped using the Gutmann or U.S. Department of Defense (DoD) 5220.22-M (7 Pass) standard or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88.
- H. CONTRACTOR shall ensure that if PII is stored in a system under CONTRACTOR's control, the system must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- I. CONTRACTOR shall ensure that if PII is stored in a system under CONTRACTOR's control, the system must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- J. CONTRACTOR shall ensure that all data transmissions of PII outside its secure internal network must be encrypted using a Federal Information Processing Standards (FIPS) 140-2 certified algorithm that is 128bit or higher, such as Advanced Encryption Standard (AES). Encryption can be end-to-end at the network level, or the data files containing PII can be encrypted. This requirement pertains to any type of PII in motion such as website access, file transfer, and E-Mail.
- K. CONTRACTOR shall ensure that all e-mails that include PII that are sent outside of its e-mail environment must be encrypted using a FIPS 140-2 certified algorithm 128bit or higher, such as AES.
- L. CONTRACTOR shall ensure that any data centers with servers, data storage devices, and critical network infrastructure involved in the use or storage of PII must include sufficient environmental protection such as cooling, power, and fire prevention, detection, and suppression.
- M. CONTRACTOR shall ensure that all workstations, laptops and other systems that process and/or store PII must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process that determines installation timeframe based on risk assessment and vendor recommendations. All applicable patches deemed as high-risk must be installed within 30 days of vendor release. Applications and systems that cannot be patched within this time frame, due to significant operational reasons, must have compensatory controls implemented to minimize risk.
- N. CONTRACTOR shall ensure that all computers, laptops, notebooks, and other systems that process and/or store PII have commercial third-party anti-virus software installed and that such software is updated when new anti-virus definitions or software releases are available.
- O. CONTRACTOR shall ensure that all electronic equipment and media, such as computers, laptops, notebooks, hard drives, flash drives, CDs/DVDs, that contain PII are encrypted using a FIPS 140-2 certified algorithm 128bit or higher, such as AES.

- P. CONTRACTOR shall ensure that if PII is stored in a system under CONTRACTOR's control, the system must have User IDs and password controls. All users must be issued a unique user name for accessing PII. Each username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised.

IX. IN THE EVENT OF PII INCIDENTS

- A. PII Incidents shall mean actual or suspected intrusion, loss or unauthorized use or disclosure of PII.
- B. In the event of an incident, CONTRACTOR shall immediately, no later than within 24 hours, notify the COUNTY DESIGNATED REPRESENTATIVE by telephone or e-mail. CONTRACTOR shall provide a description of the PII Incident, including date, time, and location; numbers of documents, files, and records; names of all clients affected; description of the PII and its source; type of system, equipment, or media affected; description of how the data was physically stored, contained, or packaged; names of persons involved; probable causes; corrective actions taken or planned; if the PII Incident was reported to law enforcement, the law enforcement report number; and any other details about the PII Incident as requested by COUNTY.
- C. In the event of a PII Incident, if requested by COUNTY, CONTRACTOR shall immediately, for the purpose of reviewing compromised PII:
- Allow COUNTY to access and review the content of CONTRACTOR's systems, equipment, and media affected by the PII Incident.
 - Provide to the COUNTY copies of electronic documents and records containing PII that resided on CONTRACTOR's systems, equipment, or media at the time of the incident.
- D. If a breach of security has occurred in the CONTRACTOR's use of PII provided by the COUNTY, the CONTRACTOR is responsible for any and all breach notifications and associated costs to the extent the breach of security was caused in whole or part by the negligence, recklessness or intentional error or omission of CONTRACTOR. The means and contents of any breach notifications must first be approved by the COUNTY.

X. QUALITY ASSURANCE AND PROGRAM REVIEW

CONTRACTOR shall permit, at any reasonable time, personnel designated by DESIGNATED REPRESENTATIVE to come on CONTRACTOR's premises for the purpose of making periodic inspections to evaluate the effectiveness of the services rendered pursuant to this Agreement.

At reasonable times during normal business hours, COUNTY or DESIGNATED REPRESENTATIVE, and/or their appropriate audit agency or designee shall have the right to inspect or otherwise evaluate the cost, quality, appropriateness and timeliness of services performed and to audit and inspect any books and records of CONTRACTOR which pertain to services performed and determination of amount payable under

this Agreement. CONTRACTOR shall furnish DESIGNATED REPRESENTATIVE with such information as he/she may require to evaluate fiscal and program effectiveness of the services being rendered.

XI. PERFORMANCE MEASURES

- CONTRACTOR will verify that services are provided using fully automated processes that are capable of tracking each individual mail piece through the printing, inserting, and mailing processes. Duplicated, missing and misprinted documents and inserts and other errors must be identified and remedied before mailing. Any errors or variation must be reported to the COUNTY immediately.
- CONTRACTOR's performance will be measured by evaluating daily print reports produced by CONTRACTOR which shall detail daily correspondence volume processed, printed and mailed. These reports are compared to CalWIN Monthly print report to ensure consistency is present.
- A DSS Help Center database report (Mailing Report) will be run and reviewed quarterly to ensure that 90% of all DSS reported questions or issues were resolved by CONTRACTOR to DSS's satisfaction, within two (2) business days.

XII. GENERAL CONTRACT PROVISIONS

- A. Modification of Services – CONTRACTOR shall obtain the expressed written consent from the COUNTY for any variation in the provision of services described in this Agreement.
- B. Modification of Performance Measures – COUNTY and CONTRACTOR will evaluate the effectiveness of the Performance Measures established in Section XI, within 90 days of the effective date of this Agreement. If necessary to obtain meaningful data about services delivery, the Performance Measures will be amended by mutual agreement between the DESIGNATED REPRESENTATIVES of this Agreement.

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EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation (with attached Schedule of Fees)

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$ **2,400,000** for the period of February 1, 2018 through June 30, 2022.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **EXHIBIT B-1** (Schedule of Fees). Invoices submitted for payment that are based upon **EXHIBIT B-1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.
- C. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of **EXHIBIT B-1** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.
- E. COUNTY will provide funds to CONTRACTOR in the amount of \$50,000 (the approximate equivalent of one month's postage) upon execution of this Agreement to maintain a postage deposit account. CONTRACTOR will invoice COUNTY weekly for actual postage used at the same discounted postal rate applied to the correspondence. All remaining postage reserve will be reimbursed to COUNTY at the expiration of the term, or termination of the Agreement, whichever is earlier. CONTRACTOR will be under no obligation to perform mailing services without a positive postage balance at the time of mailing. CONTRACTOR shall request in writing additional funds for the postage deposit account when such additional funds are necessary. Postage funds provided by COUNTY will be inclusive of the not to exceed amount set forth in Section A herein.

EXHIBIT B-1**SCHEDULE OF FEES**

Budget Items	Unit Price	Unit of Measure
BW Printing PCL5 Files	\$ 0.03195	Image
BW Printing PDF Files	\$ 0.03195	Image
Collateral Material Printing	\$ 0.03195	Image
Full Color Printing	\$ 0.03960	Image
Inserting by Machine per 1,000	\$ 7.00	Per 1000
Inserting by Hand per 1,000	\$ 20.00	Per 1000
Folding Supplied Material	\$ 0.01	Each Folding Supplied Material
Information Technology Changes - Enhancements per hour	\$ 85.00	Hour
PO Box 1532 extract, index and FTP	\$ 0.02200	Image
CASS/National Change Of Address (NCOA) Processing Fee per Record	\$ 0.00600	Record
Letter Size Postage (AADC)	0.403	Mail Piece
Flat Size Postage (3 digit)	1.65	Mail Piece

EXHIBIT C

Indemnification and Insurance Requirements (For Professional Contracts)

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, or employees.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 or equivalent form covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, and agents. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or agents shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least two (2) years after completion of contract work.

- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of two (2) years after completion of contract work.

11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

EXHIBIT D

HIPAA BUSINESS ASSOCIATE AGREEMENT (BAA)

This Business Associate Agreement (“BAA”) supplements and is made a part of the Agreement between COUNTY (referred to herein as “Covered Entity”) and CONTRACTOR (referred to herein as “Business Associate”).

RECITALS

Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).

Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“HITECH Act”), and 45 CFR Parts 160 and 164, Subpart C (the “Security Rule”), Subpart D (the “Data Breach Notification Rule”) and Subpart E (the “Privacy Rule”) (collectively, the “HIPAA Regulations”).

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require Covered Entity to enter into a contract containing specific requirements with Business Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (C.F.R.) and contained in this BAA.

In consideration of the mutual promises below and the exchange of information pursuant to this BAA, the parties agree as follows:

A. Definitions

1. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
2. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
3. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
4. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
5. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
6. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
7. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
8. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
9. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.

10. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
11. **Protected Information** shall mean PHI provided by Covered Entity to Business Associate or created or received by Business Associate on Covered Entity's behalf.
12. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
13. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

B. Obligations of Business Associate

1. **Permitted Uses.** Business Associate shall not use Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and this BAA. Further, Business Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by Covered Entity. However, Business Associate may use Protected Information (i) for the proper management and administration of Business Associate, (ii) to carry out the legal responsibilities of Business Associate, or (iii) for Data Aggregation purposes for the Health Care Operations of Covered Entity [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
2. **Permitted Disclosures.** Business Associate shall not disclose Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and this BAA. Business Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by Covered Entity. However, Business Associate may disclose Protected Information (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of Covered Entity. If Business Associate discloses Protected Information to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this BAA and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify Business Associate of any breaches of confidentiality of the Protected Information, to the extent the third party has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].
3. **Prohibited Uses and Disclosures.** Business Associate shall not use or disclose Protected Information for fundraising or marketing purposes. Business Associate shall not disclose Protected Information 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 [42 U.S.C. Section 17935(a)]. Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect

payment by Covered Entity to Business Associate for services provided pursuant to the Agreement. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement, the BAA, or the HIPAA Regulations.

4. **Appropriate Safeguards.** Business Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Agreement or this BAA, including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. Business Associate shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316 [42 U.S.C. Section 17931].
5. **Reporting of Improper Access, Use or Disclosure.** Business Associate shall report to Covered Entity in writing of any access, use or disclosure of Protected Information not permitted by the Agreement and this BAA, and any Breach of Unsecured PHI, as required by the Data Breach Notification Rule, of which it becomes aware without unreasonable delay and in no case later than 60 calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
6. **Business Associate's Subcontractors and Agents.** Business Associate shall ensure that any agents and subcontractors to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such PHI and implement the safeguards required by paragraph (c) above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
7. **Access to Protected Information.** To the extent that the Covered Entity keeps a designated record set then Business Associate shall make Protected Information maintained by Business Associate or its agents or subcontractors in Designated Record Sets available to Covered Entity for inspection and copying within five (5) days of a request by Covered Entity to enable Covered Entity to fulfill its obligations under state law [Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
8. **Amendment of PHI for Business Associate who is Required to Maintain a Record Set.** If Business Associate is required to maintain a designated record set on behalf of the Covered Entity the Business Associate shall within ten (10) days of receipt of a request from Covered Entity for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Business Associate or its agents or subcontractors shall make such Protected Information available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by Business Associate or its agents or subcontractors shall be the responsibility of Covered Entity [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

9. **Accounting Rights.** Within ten (10) days of notice by Covered Entity of a request for an accounting of disclosures of Protected Information, Business Associate and its agents or subcontractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by Covered Entity. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an 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 Business Associate maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information 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. In the event that the request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall within five (5) days of a request forward it to Covered Entity in writing. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested. Business Associate shall not disclose any Protected Information except as set forth in Sections B.2 of this BAA [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph shall survive the termination of this Agreement.
10. **Governmental Access to Records.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to Covered Entity and to the Secretary of the U.S. Department of Health and Human Services (Secretary) for purposes of determining Business Associate's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. Business Associate shall provide to Covered Entity a copy of any Protected Information that Business Associate provides to the Secretary concurrently with providing such Protected Information to the Secretary.
11. **Minimum Necessary.** Business Associate (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)]. Business Associate understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
12. **Data Ownership.** Business Associate acknowledges that Business Associate has no ownership rights with respect to the Protected Information.
13. **Business Associate's Insurance.** Business Associate represents and warrants that it purchases commercial insurance to cover its exposure for any claims, damages or losses arising as a result of a breach of the terms of this BAA.
14. **Notification of Possible Breach.** During the term of the Agreement, Business Associate shall notify Covered Entity within twenty-four (24) hours of any suspected or actual breach of security, or any access, use or disclosure of Protected Information not permitted by the Agreement or this BAA or unauthorized use or disclosure of PHI of which Business Associate becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Business Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)]
15. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the Business Associate knows of a pattern of activity or practice of the Covered Entity that constitutes a material breach

or violation of the Covered Entity's obligations under the Agreement or this BAA or other arrangement, the Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the Business Associate must terminate the Agreement or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary. Business Associate shall provide written notice to Covered Entity of any pattern of activity or practice of the Covered Entity that Business Associate believes constitutes a material breach or violation of the Covered Entity's obligations under the Agreement or this BAA or other arrangement within five (5) days of discovery and shall meet with Covered Entity to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

16. **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by Covered Entity, Business Associate and its agents or subcontractors shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this BAA for the purpose of determining whether Business Associate has complied with this BAA; provided, however, that (i) Business Associate and Covered Entity shall mutually agree in advance upon the scope, timing and location of such an inspection, (ii) Covered Entity shall protect the confidentiality of all confidential and proprietary information of Business Associate to which Covered Entity has access during the course of such inspection; and (iii) Covered Entity shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by Business Associate. The fact that Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this BAA, nor does Covered Entity's (i) failure to detect or (ii) detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under the Agreement or this BAA, Business Associate shall notify Covered Entity within ten (10) days of learning that Business Associate has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

C. Termination

1. **Material Breach.** A breach by Business Associate of any provision of this BAA, as determined by Covered Entity, shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement, any provision in the Agreement to the contrary notwithstanding [45 C.F.R. Section 164.504(e)(2)(iii)].
2. **Judicial or Administrative Proceedings.** Covered Entity may terminate the Agreement, effective immediately, if (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
3. **Effect of Termination.** Upon termination of the Agreement for any reason, Business Associate shall, at the option of Covered Entity, return or destroy all Protected Information that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by Covered Entity, Business Associate shall continue to extend the protections of Section B of this BAA to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2)(I)]. If Covered Entity elects destruction of the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.

D. Indemnification

If Business Associate fails to adhere to any of the privacy, confidentiality, and/or data security provisions set forth in this BAA or if there is a Breach of PHI in Business Associate's possession and, as a result, PHI or any other confidential information is unlawfully accessed, used or disclosed, Business Associate agrees to reimburse Covered Entity for any and all costs, direct or indirect, incurred by Covered Entity associated with any Breach notification obligations. Business Associate also agrees to pay for any and all fines and/or administrative penalties imposed for such unauthorized access, use or disclosure of confidential information or for delayed reporting if it fails to notify the Covered Entity of the Breach as required by this BAA.

E. Disclaimer

Covered Entity makes no warranty or representation that compliance by Business Associate with this BAA, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

F. Certification

To the extent that Covered Entity determines that such examination is necessary to comply with Covered Entity's legal obligations pursuant to HIPAA relating to certification of its security practices, Covered Entity or its authorized agents or contractors, may, at Covered Entity's expense, examine Business Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to Covered Entity the extent to which Business Associate's security safeguards comply with HIPAA, the HITECH Act, the HIPAA Regulations or this BAA.

G. Amendment to Comply with Law

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Agreement or this BAA may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that Covered Entity must receive satisfactory written assurance from Business Associate that Business Associate will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this BAA embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. Covered Entity may terminate the Agreement upon thirty (30) days written notice in the event (i) Business Associate does not promptly enter into negotiations to amend the Agreement or this BAA when requested by Covered Entity pursuant to this Section or (ii) Business Associate does not enter into an amendment to the Agreement or this BAA providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

H. Assistance in Litigation of Administrative Proceedings

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

I. No Third-Party Beneficiaries

Nothing express or implied in the Agreement or this BAA is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

J. Effect on Agreement

Except as specifically required to implement the purposes of this BAA, or to the extent inconsistent with this BAA, all other terms of the Agreement shall remain in force and effect.

K. Entire Agreement of the Parties

This BAA supersedes any and all prior and contemporaneous business associate agreements between the parties and constitutes the final and entire agreement between the parties hereto with respect to the subject matter hereof. Covered Entity and Business Associate acknowledge that no representations, inducements, promises, or agreements, oral or otherwise, with respect to the subject matter hereof, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein. No other agreement, statement or promise, with respect to the subject matter hereof, not contained in this BAA shall be valid or binding.

L. Interpretation

The provisions of this BAA shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provision in this BAA. This BAA and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

EXHIBIT E

COUNTY OF SANTA BARBARA DEPARTMENT OF SOCIAL SERVICES
CONTRACTOR ACKNOWLEDGEMENT
AND CONFIDENTIALITY AGREEMENT

CONTRACTOR _____

CONTRACT NAME CalWIN Print and Mailing

CONTRACTOR ACKNOWLEDGEMENT:

I understand and agree that I am an independent Contractor and that I am not an employee of the County of Santa Barbara for any purpose whatsoever and that I do not have and will not acquire any rights or benefits of any kind from the County of Santa Barbara by virtue of my performance of work under the above-referenced contract. I understand and agree that I do not have and will not acquire any rights or benefits from the County of Santa Barbara pursuant to any agreement between any person or entity and the County of Santa Barbara.

CONFIDENTIALITY AGREEMENT:

You may be involved with work pertaining to services provided by the County of Santa Barbara and, if so, you may have access to confidential data and client protected information pertaining to persons and/or entities receiving services from the County. This information includes but is not limited to client name, address, social security number, date of birth, driver's license number, identification number, or any other information that identifies the individual. In addition, you may also have access to proprietary information supplied by the County of Santa Barbara or by other vendors doing business with the County of Santa Barbara. The County has a legal obligation to protect all such confidential data and client protected information in its possession, especially data and information concerning health, mental health, criminal and public assistance records. If you are to be involved in County work, the County must ensure that you, too, will protect the confidentiality of such data and client protected information. Consequently, you must sign this agreement as a condition of your work for the County. Please read this agreement and take due time to consider it prior to signing.

I hereby agree that I will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced contract with the County of Santa Barbara. I agree to forward all requests for the release of any data or client protected information received by me to the County Designated Representative.

I agree to keep confidential all financial, health, criminal and public assistance records and all data and client protected information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, County proprietary information and all other original materials produced, created or provided to or by me under the above-referenced contract. I agree to protect these confidential materials against disclosure to other than County employees who have a need to know the information. I agree that if data and client protected information supplied by the County or by other County vendors is provided to me during this engagement, I shall keep such information confidential.

I agree to report to the County Designated Representative any and all violations of this contract by myself and/or by any other person of which I became aware. I agree to return all data and client protected information to the County Designated Representative upon completion of termination of this contract.

I acknowledge that violation of this agreement may subject me to civil and/or criminal action and that the County of Santa Barbara may seek all possible legal redress.

NAME: _____ DATE: _____
(Signature)
NAME: _____
(Please print)
POSITION: _____