

LEASE AGREEMENT
Yamhill County / Yakima Valley Farm Workers Clinic
McMinnville, Oregon Office

THIS LEASE AGREEMENT ("Lease") is made the last date set forth adjacent to the signatures of the parties below between Yamhill County, a political subdivision of the State of Oregon ("Lessor" in this agreement) and the Yakima Valley Farm Workers Clinic, a Washington nonprofit corporation, DBA the Women, Infants and Children Nutrition Program (WIC), mailing address PO Box 190, Toppenish, Washington 98948 ("Lessee" in this agreement). Based on the mutual covenants set forth below, the parties agree as follows:

Section 1 Demised Premises.

Lessor leases to Lessee the following described property located in the City of McMinnville, State of Oregon:

Office space of approximately 1,304 square feet located within the Yamhill County Health Center, 412 N. Ford, McMinnville, Oregon
Offices/rooms: 129, 131, 132, 135, 136.1, 136.2, 140 and 142. Kitchen and restroom 130 will be shared with Yamhill County staff

as such space is further described on Exhibit A, attached hereto and incorporated herein by this reference, referred to herein as the "Leased Premises".

Section 2 Term and Cancellation; Replacement of Prior Lease.

The term of this Lease is October 24, 2018 through October 23, 2023. Either party may cancel this Lease without cause on 270 days advance written notice or with cause on 90 days advance written notice. The parties acknowledge and agree that (i) a default by Lessee as provided under Section 18, (ii) abandonment by Lessee under Section 19, (iii) a loss of funding by Lessor such that Lessor, in its reasonable discretion, concluded that it was in the public interest to terminate the Lease, or (iv) the inability of Lessor and Lessee to agree upon a renegotiated rental rate under Section 3 would each individually be a sufficient cause for termination.

Section 3 Rent.

A. Subject to subparagraph (B) and (C) of this section, Lessee agrees to pay, without demand, to Lessor as rent for the Leased Premises the sum of \$1,701.15 per month per Exhibit B "WIC Rent Calculations" for the period October 24, 2018 through June 30, 2019. The Rent calculations include \$1,207.28 per year, \$6,036.40 over the term of the lease, in renovation costs for the "Tenant Improvements amortized in lease" listed in Section 9 subsection C which were not collected under the previous lease. The previous lease is memorialized in Yamhill

County Records as BO 13-629. Beginning July 1, 2021 rent shall be renegotiated to reflect the then current allocation of FTE between Lessor and Lessee in accordance with applicable federal guidelines, rules, regulations or circulars, and to remain in compliance with applicable cost allocation rules and regulations. Rent shall be due each month no later than the 15th day of the month. Rent shall be sent to Yamhill County Public Health, Attention: HHS Accounts Receivable Clerk, 412 N. Ford, McMinnville, Oregon 97128.

B. If additional space becomes vacant and available during the term of the Lease at the sole discretion of Lessor, Lessee may elect to expand the Leased Premises to include additional space. In such an event, the Rent will be increased based on the additional cost per square foot for the existing space as previously negotiated by the parties to arrive at the Rent stated in subsection (A). The Lessee may also elect to decrease the Leased Premises by up to two offices without renegotiating the Lease. In such an event, the Rent would be decreased based on the reduced cost per square foot for the remaining space.

Section 4 Quiet Enjoyment.

Lessor covenants that on paying the Rent and performing the covenants contained in this Lease, Lessee shall peacefully and quietly have, hold, and enjoy the Leased Premises for the agreed term.

Section 5 Use of Premises: Access.

The Leased Premises shall be used and occupied by Lessee exclusively as a community health clinic and reasonably related accessory uses. Neither the Leased Premises nor any part of the building of which the Leased Premises are a part shall be used at any time during the term of this Lease by Lessee for any other business purpose, profession, or trade of any kind, or for any other purpose without the express prior written consent of Lessor, which Lessor may grant in its sole reasonable discretion. Notwithstanding anything to the contrary in this section, Lessee shall not conduct any activity in, on or around the Leased Premises that is prohibited by Lessor.

Lessor and Lessee will share a common waiting room. Adequate chairs for all clients including WIC will be provided. The designated suite space will be shared with Lessor Maternal Child Health Home Visiting program staff. Any changes to the occupancy of the waiting room or shared suite made by the Lessor must be reviewed and approved by the lessee 60 days prior to change.

The main entrance door signage will be changed to reflect WIC services are now in the building. The change in signage will be paid for by Lessor.

All designated patient parking will be shared with clients as first choice. Prior to WIC occupancy, Yamhill County's Department of Health parking lot will be changed to client parking only with new signage reading "Health Department & WIC Client Parking Only".

WIC staff will have access to schedule use of the conference room for classes and meetings. WIC is allocated 10% of the conference room schedule for its use.

Lessee shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the Leased Premises; provided, however, that Lessee shall not be obligated to make structural changes to the Leased Premises under this paragraph.

Lessee shall be given access to the Leased Premises and certain common areas through the use of Lessor's key-card system. Lessee shall be responsible for all issued key-cards. Lessee agrees to immediately report the loss, theft or destruction of any issued key-card to Lessor. Failure to immediately report such loss, theft or destruction could result in further liability of Lessee for any injury, loss or damage to persons or property that can reasonably be traced to the missing key-card. There is no cost to replace the key.

Section 6 Number of Occupants.

Lessee agrees that the Leased Premises shall be occupied by no more than allowed by the fire marshal.

Section 7 Condition of Leased Premises.

Lessee stipulates that Lessee has examined the Leased Premises, including the grounds and all buildings and improvements of which the Leased Premises forms a part, and that they are, at the time of this Lease, in good order, good repair, clean, and tenantable condition.

Section 8 Assignment and Subletting.

A. Without the prior, express, and written consent of Lessor, Lessee shall not assign this Lease, or sublet or grant any concession or license to use the Leased Premises or any part of the building of which the Leased Premises forms a part. Lessor shall not unreasonably withhold, condition or delay consent to an assignment or sublet by Lessee.

B. A consent by Lessor to one assignment, subletting, concession, or license shall not be deemed to be consent to any subsequent assignment, subletting, concession, or license.

C. An assignment, subletting, concession, or license without the prior written consent of Lessor, or an assignment or subletting by operation of law, shall be void and shall, at Lessor's option, be just cause for termination of this Lease.

Section 9 Alterations and Improvements.

A. Lessee shall make no alterations to the Leased Premises or the building of which the Leased Premises forms a part, nor shall Lessee construct any building or make any other improvements to the Leased Premises without the prior, express, and written consent of Lessor.

B. All alterations, changes, and improvements built, constructed, or placed on the Leased Premises by Lessor or Lessee, with the exception of fixtures removable without damage to the Leased premises and movable personal property, shall, unless otherwise provided by written agreement between Lessor and Lessee, be the property of Lessor and remain on the Leased Premises at the expiration or earlier termination of this Lease.

Section 10 Damage to Premises.

Lessee, at Lessee's sole cost, shall promptly repair any damage to the Leased Premises or the building of which the Leased Premises forms a part caused by the intentional or negligent act or failure to act of Lessee's officers, employees, contractors, subcontractors, agents, assigns, clients, invitees or persons in Lessee's charge.

Section 11 Dangerous Materials.

Lessee shall not keep or have on the Leased Premises any article or thing of a dangerous, inflammable, or explosive character that might unreasonably increase the danger of fire on the Leased Premises or that might be considered hazardous or extra hazardous by any responsible insurance company.

Section 12 Utilities; electronic devices; telephones.

The Rent includes Lessee's share of utility services and expenses including electrical, heating and cooling, water, garbage, janitorial and telephone. Provided, however, that Lessee shall be responsible for all costs arising from or relating to providing internet other electronic communication services (besides local telephone service) to the Leased Premises. Lessor shall provide an agreed upon amount of space in the attic of the building of which the Leased Premises forms a part for the installation and operation by Lessee of any equipment or related electronic communication devices. The costs of all such equipment, its installation maintenance, repair and/or replacement shall be Lessee's sole responsibility.

Section 13 Maintenance and Repair.

A. Lessor shall be responsible for normal and ordinary building maintenance including but not limited to routine janitorial, spot cleaning, window washing, carpet cleaning, painting of interior and exterior surfaces and changing light bulbs during the entire term of this Lease. All other maintenance and/or repair of the Leased Premises shall be at Lessee's sole cost and expense. A cleaning schedule for the building exists. General cleaning such as vacuuming,

emptying garbage cans and cleaning restrooms happens on a daily basis. Other tasks take place on weekly, bi-weekly, monthly and annual basis.

B. Major maintenance and repair of the Leased Premises not due to Lessee's or Lessee's misuse, waste, or neglect, or not due to the misuse, waste or neglect of Lessee's officers, employees, contractors, subcontractors, agents, invitees, clients, charges or visitors, shall be the responsibility of Lessor or Lessor's assigns. Major maintenance and repair of the Leased Premises due to Lessee's or sublessee's misuse, waste, or neglect or that of Lessee's or sublessee's officers, employees, contractors, subcontractors, agents, invitees, clients, charges or visitors, shall be the responsibility of Lessee or Lessee's assigns. County Facility Maintenance is responsible for maintenance and repair needs including light bulb replacement, snow/ice removal, etc., on an as needed basis.

C. Lessee agrees that no signs shall be placed or painting done on or about the Leased Premises by Lessee or at Lessee's direction without the prior, express, written consent of Lessor.

Section 14 Animals.

Lessee shall keep no domestic or other animals on or about the Leased Premises without the prior, express, and written consent of Lessor.

Section 15 Right of Inspection.

Lessor and Lessor's officers, employees, contractors, subcontractors or agents shall have the right at all reasonable times during the entire term of this Lease to enter the Leased Premises for the purpose of inspecting the Leased Premises and all building and improvements on the Leased Premises.

Section 16 Holdover by Lessee.

Should Lessee remain in possession of the Leased Premises with the consent of Lessor after the natural expiration of this Lease, a new tenancy from month to month shall be created between Lessor and Lessee which shall be subject to all the terms and conditions of this Lease, but shall be terminable on 15 days written notice served by either Lessor or Lessee on the other party. Any option to renew a 5 year lease will be negotiated by both parties.

Section 17 Surrender of Premises.

At the expiration of the Lease Lessee shall quit and surrender the Leased Premises in as good state and condition as they were at the commencement of this Lease, reasonable use and wear excepted.

Section 18 Default.

If any default is made in the payment of rent, or any part of the rent, at the times specified in this Lease, or if any default is made in the performance of or compliance with any other term or condition of this Lease, the Lease, at the option of Lessor, shall terminate and be forfeited, and Lessor may re-enter the Leased Premises and remove all persons and property from the Leased Premises. Lessee shall be given written notice of any default or breach. Termination and forfeiture of the Lease shall not result if, within 15 days from receipt of such notice, Lessee has corrected the default or breach or has taken action reasonably likely to affect such correction within a reasonable time.

Section 19 Abandonment.

A. If at any time during the term of this Lease, Lessee abandons the Leased Premises or any part of the Leased Premises, Lessor may, at Lessee's option, enter the Leased Premises by any means without being liable for any prosecution for such entering, and without becoming liable to Lessee for damages or for any payment of any kind whatever, and may, at Lessor's discretion, as agent for Lessee, relet the Leased Premises, or any part of the Leased Premises, for the whole or any part of the then unexpired term of this Lease, and may receive and collect all rent payable by virtue of such reletting, and, at Lessor's option, hold Lessee liable for any difference between the Rent that would have been payable under this Lease during the balance of the unexpired term, if this Lease had continued in force, and the net rent for such period realized by Lessor by means of such reletting.

B. If Lessor's right of re-entry is exercised following abandonment of the Leased Premises by Lessee, then Lessor may consider any personal property belonging to Lessee and left on the Leased Premises to also have been abandoned, in which case Lessor may dispose of all such personal property in any manner Lessor shall deem proper and is hereby relieved of all liability for doing so.

Section 20 Property Tax Exemption; Taxes.

A request for an exemption from ad valorem property taxes shall be the sole and exclusive responsibility of Lessor. The Rent payable under this Lease shall not be changed if Lessor does not obtain an exemption. All other applicable taxes shall be the responsibility of Lessee.

Section 21 Insurance.

Lessor shall obtain fire and property damage insurance on the building of which the Leased Premises forms a part, but not on Lessee's contents. Lessee shall name Lessor as a named insured under its comprehensive general liability insurance policy. Lessee agrees to obtain worker's compensation insurance for all its subject workers working at the Leased Premises. Lessee further agrees that in the event of a sublease Lessee shall require any sublessee

to obtain worker's compensation insurance for all its subject workers working at the Leased Premises.

Section 22 Binding Effect.

The covenants and conditions contained in this Lease shall apply to and bind the heirs, legal representatives, and assigns of the parties, and all covenants are to be construed as conditions of this Lease.

Section 23 Governing Law.

It is agreed that this Lease shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding, (collectively "Claim") between Lessor and Lessee that arises from or relates to this Lease shall be brought and conducted solely and exclusively within the Circuit Court of Yamhill County for the State of Oregon. LESSEE, BY EXECUTION OF THIS AGREEMENT HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

Section 24 Time of the Essence.

It is specifically declared and agreed that time is of the essence of this Lease.

Section 25 Arbitration.

Any dispute between the parties to this Lease shall be resolved by arbitration conducted in accordance with the rules set forth in the Oregon International Commercial Arbitration and Conciliation Act, ORS 36.450 to 36.558, 2001 replacement part. The decision of the arbitrator shall be final and binding on the parties.

Section 26 Attorney Fees and Costs.

In the event that either party to this Lease shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this Lease, each party shall be wholly responsible for its own expenses which it may reasonably incur in taking such action, including costs and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any nonjudicial action.

Section 27 Entire Agreement.

This Lease and the Business Associate Agreement (Exhibit C) shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease.

Section 28 Modification of Agreement.

Any modification of this Lease or additional obligation assumed by either party in connection with this Lease shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

In witness whereof, each party to this Lease has caused it to be executed at McMinnville, Oregon on the date set forth adjacent to the signatures of the parties below.

Indemnification Clause: Tenant shall indemnify and defend Landlord from any claim, loss or liability arising out of or related to any activity Tenant on the leased premises or any condition of the leased premises is in the possession or under control of the Tenant. Tenant shall not be obligated to indemnify Landlord of any injury or damage resulting from the sole negligence of Landlord or Landlord's failure to perform under this lease.

LESSEE

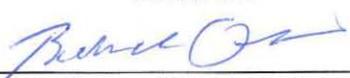
By: 
(signature)
Yakima Valley Farm Workers Clinic
Date: 4/9/19

JUAN Carlos Olivares
(printed name)

CEO
(title)

Tax ID No.: 91-1019392

LESSOR


RICHARD L. "RICK" OLSON, Chair
Board of Commissioners
Date: _____

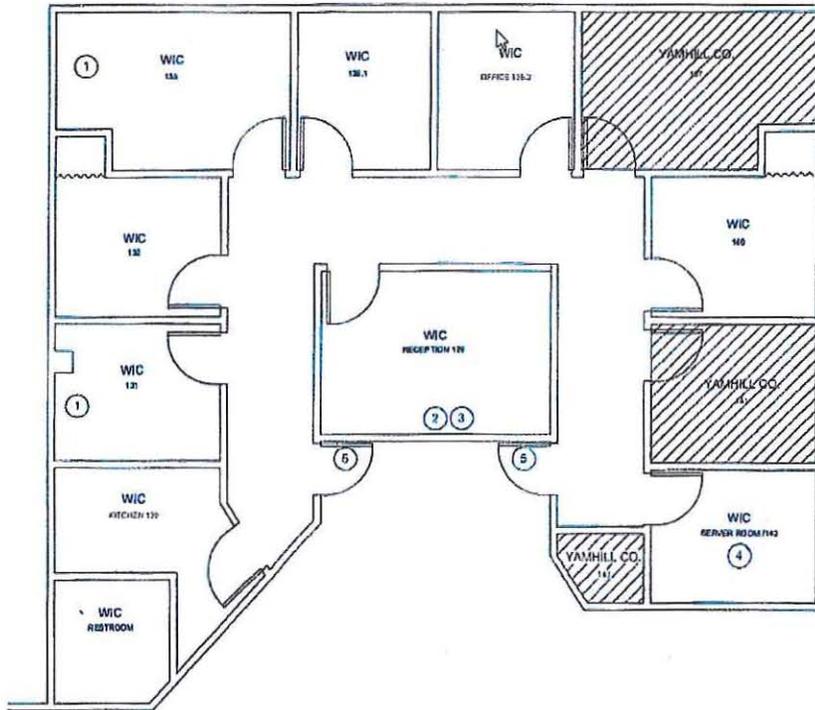

SILAS HALLORAN-STEINER, Director
Department of Health & Human Services
Date: 4/17/19

FORM APPROVED BY:

CHRISTIAN BOENISCH
County Counsel
Date: 4/19/19

Accepted by Yamhill County
Board of Commissioners on
4/18/19 by Board Order
19-115

**EXHIBIT 'A'
MCMINNVILLE WIC**



SHEET NOTES:

- ① INSTALL ADA COMPLIANT SINK
- ② INSTALL TWO RECEPTION WINDOWS WITH TRANSACTION COUNTERS AND LOCKABLE WINDOWS. ONE RECEPTION WINDOW MUST BE ADA COMPLIANT. EACH WINDOW MUST OPERATE/LOCK SEPARATELY.
- ③ RELOCATE EXISTING PANIC BUTTON TO RECEPTION COUNTER - PANIC BUTTON MUST BE FUNCTIONAL.
- ④ SERVER ROOM: REMOVE EXISTING CARPETING AND EITHER INSTALL STATIC DISSIPATED VCT OR REMOVE ALL ADHESIVE DEBRIS AND LEAVE BARE/CLEAN CONCRETE FLOOR. INSTALL (1) SHEET OF 4X8 PAINTED PLYWOOD ON WALL. SEE EXHIBIT 6 FOR SERVER ROOM AND DATA CABLING SPECIFICATIONS.
- ⑤ INSTALL 6'X30" VISION LIGHTS IN WAITING ROOM DOORS

GENERAL NOTES:

1. INSTALL ADA COMPLIANT DOOR HARDWARE ON ALL DOORS WITH EXCEPTION TO SERVER ROOM 142. DOOR HARDWARE FOR ROOM 129 MUST BE LOCKABLE AND KEYS GIVEN TO WIC STAFF. LESSEE WILL PROVIDE AND INSTALL DOOR HARDWARE FOR SERVER ROOM 142.
2. ALL OFFICES/ROOMS WITH EXCEPTION TO SERVER ROOM (OFFICE 142) TO BE REPAINTED.
3. HAVE CARPET CLEANED IN ALL OFFICES/ROOMS. OFFICES/ROOMS WITH SHEET VINYL FLOORING, HAVE FLOORING STRIPED AND WAXED.

Exhibit B - WIC rent space calculations - 2018

space description	dimensions	sq ft	% used	
room 129	(10.5*13.67)	143.54	100%	143.54
room 131	10*8.417	84.17	100%	84.17
room 132	(8.417*10)+(3*2.5)	91.67	100%	91.67
room 135	(14*9.33)-(3*2.5)	123.12	100%	123.12
room 136 (.1 & .2)	16.5*9.33	153.95	100%	153.95
room 137	(14*9.33)-(3*2.5)	123.12	0%	-
room 140	(8.417*10)+(3*2.5)	91.67	100%	91.67
room 141	10*8.417	84.17	0%	-
room 142	(8.1*10)	81.00	100%	81.00
closet 143	(5.417*4.25)-.5*(3*3)	18.52	0%	-
	office subtotal	994.92		769.11

halls	(20.167*5.417)+(5.417*13.67)	183.30	77.3%	141.69	% used is WIC offices divided by all office space (no halls/bathroom) In horseshoe area
room 130 with bathroom	(13.5*14)-(.5*10*8.417)-(4*4)	130.92	77.3%	33.40	
conf room	(18.75*16.825)	315.47	10%	31.55	
shared bathrooms	317.3	317.30	21%	66.88	
shared lobby	650.6	650.60	21%	137.13	

TOTAL WIC SPACE

1,179.76 total sq. ft

monthly rent + maintenance per sq.

1.36 ft. per budget instructions

\$ - annual phone

\$ 1,207.28 Renovation costs

\$ 20,413.79 annual cost

\$ 1,701.15 monthly cost

26.21 PH FTE

7 WIC FTE

33.21 Total FTE

21% % of public restrooms and lobby area to assign to WIC

Renovation costs:

\$	200	Data rack
\$	100	Ladder wire support
\$	500	cabling, wall boxes, terminations
\$	200	patch panels
\$	3,110	AC install
\$	2,475	Electrical, AC and server room
\$	6,585	TOTAL

EXHIBIT C
BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION AGREEMENT

RECITALS

A. The CONTRACTOR may use and disclose Protected Health Information and Electronic Protected Health Information (“EPHI”) in the performance of its obligations under the Agreement; and

B. County operates a drug and alcohol treatment program subject to the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 USC §290dd-2 and 42 CFR Part 2 (collectively, “Part 2”); if CONTRACTOR is a Qualified Service Organization (QSO) under Part 2 it also must agree to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information with respect to the performance of its obligations under the Agreement; and

C. The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164, require that COUNTY, as a Covered Entity, obtain satisfactory assurances from its Business Associates, as that term is defined in the Privacy Rule and Security Rule, that they will comply with the Business Associate requirements set forth in 45 CFR 164.502(e) and 164.504(e) and as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA”); CONTRACTOR is a Business Associate of COUNTY and desires to provide such assurances with respect to the performance of its obligations under the Agreement pursuant to this Business Associate/Qualified Service Organization Agreement (“BAA”); and

D. Both COUNTY and CONTRACTOR are committed to compliance with the standards set forth in Part 2, the Privacy Rule and Security Rule as amended by the HITECH Act, and as they may be amended further from time to time, in the performance of their obligations under the Agreement.

NOW, THEREFORE, in consideration of mutual and valuable consideration which the parties hereby acknowledge as received, the parties agree as follows:

AGREEMENT. The parties agree that the following terms and conditions shall apply to the performance of their obligations under the Agreement, effective upon execution of this BAA. Capitalized terms used, but not otherwise defined in this BAA, shall have the same meaning as those terms in Part 2, the Privacy Rule and Security Rule.

1. SERVICES. Pursuant to the Agreement, CONTRACTOR provides certain services for or on behalf of COUNTY, as described in the Agreement, which may involve the use and disclosure of Protected Health Information and EPHI. CONTRACTOR may make use of Protected Health Information and EPHI to perform those services if authorized in the Agreement and not

otherwise limited or prohibited by this BAA, Part 2, the Privacy Rule, the Security Rule and other applicable federal or state laws or regulations. All other uses of Protected Health Information and EPHI are prohibited.

2. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR.

(a) CONTRACTOR agrees to not use or disclose Protected Health Information or EPHI other than as permitted or required by the Agreement (as amended by this BAA), and as permitted by Part 2, the Privacy Rule, the Security Rule or as required by Law. Notwithstanding any other language in this BAA, CONTRACTOR acknowledges and agrees that any patient information it receives from COUNTY that is protected by Part 2 regulations is subject to protections that prohibit CONTRACTOR from disclosing such information to agents or subcontractors without the specific written consent of the subject individual.

(b) CONTRACTOR agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information and EPHI other than as provided for by the Agreement as amended by this BAA, and if necessary will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by the Part 2 regulations.

(c) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of Protected Health Information or EPHI by CONTRACTOR in violation of the requirements of the Agreement, as amended by this BAA.

(d) CONTRACTOR agrees to report to COUNTY, as promptly as possible, any use or disclosure of the Protected Health Information or EPHI not provided for by the Agreement, as amended by this BAA, of which it becomes aware.

(e) CONTRACTOR agrees to ensure that any agent, including a contract hearing officer or other subcontractor, to whom it provides Protected Health Information or EPHI received from, or created or received by CONTRACTOR on behalf of COUNTY, agrees to the same restrictions and conditions that apply through the Agreement, as amended by this BAA, to CONTRACTOR with respect to such information.

(f) CONTRACTOR agrees to provide access, at the request of COUNTY, and in the time and manner designated by COUNTY, to Protected Health Information and EPHI in a Designated Record Set (the hearing file), to COUNTY or, as directed by COUNTY, to an Individual in order to meet the requirements under 45 CFR 164.524.

(g) CONTRACTOR agrees to make any amendment(s) to Protected Health Information and EPHI in a Designated Record Set that the COUNTY directs or agrees to pursuant to 45 CFR 164.526 at the request of COUNTY or an Individual, and in the time and manner designated by COUNTY.

(h) CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures and any Protected Health Information or EPHI, relating to the use and disclosure of

Protected Health Information and EPHI received from, or created or received by CONTRACTOR on behalf of COUNTY, available to COUNTY or to the Secretary, within the time and in the manner designated by COUNTY or the Secretary, for purposes of the Secretary determining COUNTY's compliance with Part 2, the Privacy Rule or Security Rule.

(i) CONTRACTOR agrees to refer requests for disclosures of Protected Health Information and EPHI to the COUNTY for response, except for requests related to conducting the contested case hearing. To the extent CONTRACTOR discloses Protected Health Information or EPHI for purposes not related to conducting the contested case hearing, CONTRACTOR agrees to document such disclosures to the extent such documentation is required for COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.

(j) CONTRACTOR agrees to provide to COUNTY or an Individual, in time and manner to be designated by COUNTY, information collected in accordance with Section 2(i) of this BAA, to permit COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.

(k) CONTRACTOR agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of the COUNTY.

(l) In the event of Discovery of a Breach of Unsecured Protected Health Information, CONTRACTOR shall:

(i) Notify the COUNTY of such Breach. Notification shall include identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by CONTRACTOR to have been accessed, acquired or disclosed during such Breach and any other information as may be reasonably required by the COUNTY necessary for the COUNTY to meet its notification obligations;

(ii) Confer with the COUNTY as to the preparation and issuance of an appropriate notice to each individual whose Unsecured Protected Health Information has been, or is reasonably believed by CONTRACTOR to have been accessed, acquired or disclosed as a result of such Breach;

(iii) Where the Breach involves more than 500 individuals, confer with the COUNTY as to the preparation and issuance of an appropriate notice to prominent media outlets within the State or as appropriate, local jurisdictions; and,

(iv) Confer with the COUNTY as to the preparation and issuance of an appropriate notice to the Secretary of DHHS of Unsecured Protected Health Information that has been acquired or disclosed in a Breach. CONTRACTOR understands that if the Breach was with respect to 500 or more individuals, such notice to the Secretary must be provided immediately, and therefore, time is of the essence in the obligation to confer with the COUNTY. If the Breach was with respect to

less than 500 individuals, a log may be maintained of any such Breach and the log shall be provided to the Secretary annually documenting such Breaches occurring during the year involved.

(v) Except as set forth in (vi) below, notifications required by this section are required to be made without unreasonable delay and in no case later than 60 calendar days after the Discovery of a Breach. Therefore, the notification of a Breach to the COUNTY shall be made as soon as possible and CONTRACTOR shall confer with the COUNTY as soon as practicable thereafter, but in no event, shall notification to the COUNTY be later than 30 calendar days after the Discovery of a Breach. Any notice shall be provided in the manner required by the HITECH Act, sec 13402(e) and (f), Public Law 111-5, 45 CFR 164.404 through 164.410 and as agreed upon by the COUNTY.

(vi) Any notification required by this section may be delayed by a law enforcement official in accordance with the HITECH Act, sec 13402(g), Public Law 111-5.

(vii) For purposes of this section, the terms "Unsecured Protected Health Information" and "Breach" shall have the meaning set forth in 45 CFR § 164.402. A Breach will be considered as "Discovered" in accordance with the HITECH Act, sec 13402(c), Public Law 111-5, 45 CFR 164.404(a)(2).

(m) CONTRACTOR shall comply with 45 C.F.R. 164.308, 164.310, 164.312 and 164.316 and all requirements of the HITECH Act, Public Law 111-5, that relate to security and that are made applicable to Covered Entities, as if CONTRACTOR were a Covered Entity.

(n) CONTRACTOR shall be liable to the COUNTY, and shall indemnify the COUNTY for any and all direct costs incurred by the COUNTY, including, but not limited to, costs of issuing any notices required by HITECH or any other applicable law, as a result of CONTRACTOR's Breach of Unsecured Protected Health Information.

3. PERMITTED USES AND DISCLOSURES BY CONTRACTOR.

(a) General Use and Disclosure Provisions.

(1) Except as otherwise limited or prohibited by this BAA, CONTRACTOR may use or disclose Protected Health Information and EPHI to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the Agreement and this BAA, provided that such use or disclosure would not violate Part 2, the Privacy Rule or Security Rule if done by COUNTY or the minimum necessary policies and procedures of COUNTY.

(2) COUNTY has determined that disclosures to CONTRACTOR under the Agreement are necessary and appropriate for COUNTY's Treatment, Services, Payment and/or Health Care Operations under Part 2, the HIPAA Privacy Rule and Security Rule and Required By Law under Or Laws 1999, ch. 849 (HB 2525).

(3) All applicable federal and state confidentiality or privacy statutes or regulations, and related procedures, continue to apply to the uses and disclosures of information under this BAA, except to the extent preempted by Part 2 or the HIPAA Privacy Rule and Security Rule.

(b) Specific Use and Disclosure Provisions.

(1) Except as otherwise limited in this BAA, CONTRACTOR may use Protected Health Information and EPHI for the proper management and administration of the CONTRACTOR or to carry out the legal responsibilities of the CONTRACTOR.

(2) Except as otherwise limited in this BAA, CONTRACTOR may disclose Protected Health Information and EPHI for the proper management and administration of the CONTRACTOR, provided that disclosures are Required By Law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.

(3) CONTRACTOR may use Protected Health Information and EPHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

(4) CONTRACTOR may not aggregate or compile COUNTY's Protected Health Information or EPHI with the Protected Health Information or EPHI of other Covered Entities unless the Agreement permits CONTRACTOR to perform Data Aggregation services. If the Agreement permits CONTRACTOR to provide Data Aggregation services, CONTRACTOR may use Protected Health Information and EPHI to provide the Data Aggregation services requested by COUNTY as permitted by 45 CFR 164.504(e)(2)(i)(B), subject to any limitations contained in this BAA. If Data Aggregation services are requested by COUNTY, CONTRACTOR is authorized to aggregate COUNTY's Protected Health Information and EPHI with Protected Health Information or EPHI of other Covered Entities that the CONTRACTOR has in its possession through its capacity as a CONTRACTOR to such other Covered Entities provided that the purpose of such aggregation is to provide COUNTY with data analysis relating to the Health Care Operations of COUNTY. Under no circumstances may CONTRACTOR disclose Protected Health Information or EPHI of COUNTY to another Covered Entity absent the express authorization of COUNTY.

4. OBLIGATIONS OF COUNTY.

(a) COUNTY shall notify CONTRACTOR of any limitation(s) in its notice of privacy practices of COUNTY in accordance with 45 CFR 164.520, to the extent that such limitation may affect CONTRACTOR's use or disclosure of Protected Health Information and EPHI. COUNTY may satisfy this obligation by providing CONTRACTOR with COUNTY's most current Notice of Privacy Practices.

(b) COUNTY shall notify CONTRACTOR of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information or EPHI, to the extent that such changes may affect CONTRACTOR's use or disclosure of Protected Health Information and EPHI.

(c) COUNTY shall notify CONTRACTOR of any restriction to the use or disclosure of Protected Health Information or EPHI that COUNTY has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect CONTRACTOR's use or disclosure of Protected Health Information or EPHI.

5. PERMISSIBLE REQUESTS BY COUNTY.

(a) COUNTY shall not request CONTRACTOR to use or disclose Protected Health Information or EPHI in any manner that would not be permissible under Part 2, the Privacy Rule or Security Rule if done by COUNTY, except as permitted by Section 3(b) above.

(b) COUNTY may conduct a survey of CONTRACTOR with respect to CONTRACTOR's compliance with the terms of this BAA and applicable law for the establishment of policies and procedures for the safeguarding of any Protected Health Information and EPHI provided to CONTRACTOR by COUNTY. CONTRACTOR shall implement any recommendations of COUNTY resulting from such surveys as may be reasonably necessary to ensure compliance with the terms of this BAA and applicable law for the safeguarding of any Protected Health Information and EPHI provided to CONTRACTOR by COUNTY.

6. TERM AND TERMINATION.

(a) Effective Date; Term. This BAA shall be effective on the date on which all parties have executed it and all necessary approvals, if any, have been granted. This BAA shall terminate on the earlier of (i) the date of termination of the Agreement, or (ii) the date on which termination of the BAA is effective under Section 6(b).

(b) Termination for Cause. In addition to any other rights or remedies provided in this BAA, upon either the COUNTY's or CONTRACTOR's knowledge of a material breach by the other party of that party's obligations under this BAA, the party not in breach shall either:

(1) Notify the other party of the breach and specify a reasonable opportunity in the Notice of Breach to the party in breach to cure the breach or end the violation, and terminate the Agreement and this BAA if the party in breach does not cure the breach of the terms of this BAA or end the violation within the time specified;

(2) Immediately terminate the Agreement and this BAA if the party in breach has breached a material term of this BAA and cure is not possible in the reasonable judgment of the party not in breach; or

(3) If neither termination nor cure is feasible, the party not in breach shall report the violation to the Secretary.

(4) The rights and remedies provided in this BAA are in addition to any rights and remedies provided in the Agreement.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this Section 6(c), upon termination of the Agreement and this BAA, for any reason, the party in breach shall, at the other party's option, return or destroy all Protected Health Information and EPHI received from the other party, or created or received by CONTRACTOR on behalf of COUNTY. This provision shall apply to Protected Health Information and EPHI that is in the possession of CONTRACTOR or agents of CONTRACTOR. CONTRACTOR shall retain no copies of the Protected Health Information or EPHI.

(2) In the event that CONTRACTOR determines that returning or destroying the Protected Health Information or EPHI is infeasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or destruction infeasible. Upon COUNTY's written acknowledgement that return or destruction of Protected Health Information or EPHI is infeasible, CONTRACTOR shall extend the protections of this BAA to such Protected Health Information and EPHI and limit further uses and disclosures of such Protected Health Information and EPHI to those purposes that make the return or destruction infeasible, for so long as CONTRACTOR maintains such Protected Health Information or EPHI.

7. MISCELLANEOUS.

(a) Regulatory References. A reference in this BAA to a section in Part 2, the Privacy Rule, or Security Rule, or the HITECH Act means the section in effect as of the effective date of this BAA or as the Rules may be subsequently amended from time to time.

(b) Amendment; Waiver. The Parties agree to take such action as is necessary to amend the Agreement and this BAA from time to time as is necessary for COUNTY to comply with the requirements of Part 2, the Privacy Rule, Security Rule, HIPAA and the HITECH Act. No provision hereof shall be deemed waived unless in writing, duly signed by authorized representatives of the parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this BAA.

(c) Survival. The respective rights and obligations of CONTRACTOR under Section 6(c), this Section 7(c), and Section 7(e) of this BAA shall survive the termination of the Agreement and this BAA.

(d) Interpretation; Order of Precedence. Any ambiguity in this BAA or the Agreement shall be resolved to permit COUNTY to comply with Part 2, the Privacy Rule, Security Rule and the HITECH Act. The terms of this BAA amend and supplement the terms of the Agreement, and

whenever possible, all terms and conditions in this BAA and the Agreement are to be harmonized. In the event of a conflict between the terms of this BAA and the terms of the Agreement, the terms of this BAA shall control; provided, however, that this BAA shall not supersede any other federal or state law or regulation governing the legal relationship of the parties, or the confidentiality of records or information, except to the extent that HIPAA preempts those laws or regulations. In the event of any conflict between the provisions of the Agreement (as amended by this BAA) and Part 2, the Privacy Rule or the Security Rule, the more stringent rule shall apply.

(e) No Third-Party Beneficiaries. COUNTY and CONTRACTOR are the only parties to this BAA and are the only parties entitled to enforce its terms. Nothing in this BAA gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this BAA.

(f) Successors and Assigns. The provisions of this BAA and the Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns, if any.

(g) Except As Amended. Except as amended by this BAA, all terms and conditions of the Agreement shall remain in full force and effect.

8. SIGNATURES.

By signing this BAA, the parties certify that they have read and understood this BAA, that they agree to be bound by the terms of this BAA and the Agreement, as amended, and that they have the authority to sign this BAA.

CONTRACTOR:

By: 
Title: CEO
Date: 4/9/19

COUNTY:

By: 
Title: HHS DIRECTOR
Date: 4/17/19

B.D. 19-115
Exhibit "A"