

Memorandum Of Understanding  
Between  
County Of Orange  
And  
City Of Huntington Beach  
For  
Capital Improvements And Services At Huntington Beach Navigation Center

This Memorandum of Understanding (“MOU”) is entered into upon execution of necessary signatures, by and between the County Executive Office, Office of Care Coordination, hereinafter referred to as “County,” and the City of Huntington Beach, hereinafter referred to as “City.” County and City may be referred to individually as “Party” and collectively as the “Parties”.

This MOU establishes the specific guidelines for the implementation and administration of the Homeless Housing, Assistance and Prevention Program (HHAP) funding to support Capital Improvement and Services at the Huntington Beach Navigation Center located at 17631 Cameron Lane, Huntington Beach, CA 92647, herein after referred to as “HBNC”.

The relationship between County and City, with regard to this MOU, is based upon the following:

1. This MOU sets forth the procedures authorized by both the County and City, for their respective employees to follow in implementing and operating the Capital Improvements and Services at the HBNC.
2. This is a financial MOU and is a legally binding agreement based on the promises of the Parties.
3. The City, through staffing and/or subcontracted provider(s), is to provide the services and activities described in this MOU that benefit persons who are experiencing homelessness and are eligible to access the HBNC pursuant to the guidelines set forth in this MOU. References to the City throughout this MOU will include any services and activities provided through the subcontracted provider(s).

I. BACKGROUND

On September 29, 2019, the County entered into a Subrecipient Agreement with the City to transfer a Sprung shelter facility and other equipment, as well as a grant amount to be used to facilitate compliance with COVID-19 related public health measures, including care for homeless populations of Orange County to facilitate compliance with COVID-19 related public health measures, including care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 health precautions.

Since then, the City has operated HBNC as an emergency shelter program that provides 164 beds to individuals experiencing homelessness within the City boundaries and provides case management, housing navigation and access to other supportive services with the goal.

HBNC is in need of some capital improvements to address the wear and tear associated with daily usage of the facility and additional repairs and upgrades that would improve the participant's experience. Through this MOU, the County will provide HHAP funding to the City to support the implementation of the capital improvements projects and gain access to five (5) As Available Beds at the HBNC during the term of the MOU.

## II. PURPOSE

The purpose of this MOU is to establish the procedure for the County and City to provide funding in support of capital improvements needed and outlines the mechanism for the County to refer up to 5 individuals who meet the criteria under Section 5 of this MOU to As Available Beds at the HBNC during the term of the MOU.

## III. TERM

The term of this MOU is upon execution of necessary signatures to June 30, 2028, unless earlier terminated pursuant to the provisions of Paragraph 21 of this MOU; however, the Parties shall be obligated to perform such duties as would normally extend beyond this term, including, but not limited to, obligations with respect to indemnification, reporting and confidentiality.

## IV. DEFINITIONS

- A. As Available Beds: refers to a minimum of five (5) beds at the HBNC for the Office of Care Coordination to refer Eligible Participants, available on a first-come, first-served basis. These may include beds designated for men, women, non-binary individuals, and couples.
- B. Chronic Homelessness: HUD defines an individual or household to be experiencing chronic homelessness if:
  - a. The head of household has a disability, as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:
    - 1. Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
    - 2. Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last three (3) years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least seven (7) consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;
  - b. An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or

- c. A household with an adult head of household who meets all of the criteria in paragraph (1) or (2) of this definition, including a household whose composition has fluctuated while the head of household has been experiencing homelessness.
- C. County of Orange Standards of Care for Emergency Shelter (Standards of Care) are a comprehensive set of administrative, operational, and facility-based standards designed to support the quality and consistency of program operations, evidence-based participant services, core organizational and administrative functions, and facility design and operations. Reference Attachment A.
- D. Eligible Participant: An individual experiencing homelessness in Orange County who meets the criteria as detailed in Section 5. Population to be Served.
- E. Homelessness: HUD defines an individual or family as experiencing homelessness, if the individual or family meets any of the following conditions
  - a. An individual or family who lacks a fixed, regular, and adequate nighttime residence.
  - b. An individual or family with a primary night-time residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including, but not limited to, a car, park, abandoned building, bus station, train station, airport, or camping ground.
  - c. An individual or family living in a supervised publicly or privately-operated shelter designated to provide temporary living arrangements, including hotels or motels paid for by state or local government programs for low-income individuals or by charitable organizations, congregate shelters, or transitional housing.
  - d. An individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided.
  - e. An individual or adult only household who will imminently lose their housing, including, but not limited to, housing they own, rent, or live in without paying rent, are sharing with others, or rooms in hotels or motels not paid for by state or local government programs for low-income individuals or by charitable organizations, as evidenced by any of the following:
    - 1. A court order resulting from an eviction action that notifies the individual or family that they must leave within fourteen (14) days.
    - 2. The individual or family having a primary nighttime residence, that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than fourteen (14) days.
    - 3. Credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than fourteen (14) days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause.
- F. Homeless Housing, Assistance and Prevention (HHAP) is a state funding source from the California Department of Housing and Community Development, which is intended to support local jurisdictions in their unified regional response to prevent and end homelessness in their regions.
- G. HUD refers to the U.S. Department of Housing and Urban Development, which has oversight responsibilities for the use of federal funds provided to entitlement communities.

- H. Office of Care Coordination is the division in the County Executive Office that coordinates homeless services programs for participants who are experiencing homelessness or at risk of homelessness. This includes OC Outreach & Engagement (OC O&E).
- I. Outreach is the professional activity of trained homeless outreach workers to meet the immediate needs of people experiencing homelessness in unsheltered locations by connecting them with emergency shelter, housing, or critical services, and providing them with urgent, non-facility-based care through engagement, linkage and referrals.
- J. Referrals is the linkage of eligible participants to appropriate supportive services, which may include activities that involve educating the community about services offered and requirements for participation in programs.

V. POPULATION TO BE SERVED

- A. HBNC provides services to adult individuals, aged 18 and older, and adult-only households who are experiencing homelessness in Huntington Beach. Such individuals and household members must be able to meet all Activities of Daily Living (ADL) and must have no open felony warrants, must not be sex offender (pursuant to Penal Code 290), and must not have any known convictions or pending charges for arson (e.g. Penal Code 451). Further, such individuals, or at least one member of such household, must have verifiable ties to Huntington Beach, based on the following criteria:
  - a. A documented permanent address in Huntington Beach within the last five years;
  - b. If experiencing homelessness longer than five years, a documented last permanent address in Huntington Beach.
  - c. Current employment in Huntington Beach or verifiable employment in Huntington Beach within the past six months (such as a pay stub).
  - d. Full-time enrollment at Golden West College or enrollment in full-time-considered program (e.g. cosmetology, mechanics certification, etc.) in Huntington Beach.
  - e. A family member (as defined in the FHA Single Family Housing Policy Handbook 4000.1) currently residing in Huntington Beach.

VI. CITY RESPONSIBILITIES

A. Capital Improvements

- a. City shall contract directly with, make payment for, and collect applicable back-up documentation of all HHAP funded capital improvements made at HBNC.
- b. City shall ensure that capital improvements meet eligible costs and program requirements set forth in the HHAP guidelines and this MOU.
- c. City shall ensure that capital improvements are coordinated with the HBNC and impacts on the operations and participants are minimized.

- d. The City will complete some or all of the following capital improvements during the term of the MOU, as funding allows. The parties acknowledge that the total cost of identified repairs exceeds \$500,000. Accordingly, the City will determine the timing, prioritization, and scope of such improvements based on available funds, operational needs, and overall project considerations.
  1. Repair of Sprung Structure Lining. Repairs to the base of the structure are necessary to reinforce the lining seal and will include asphalt grading for improved draining. Estimated cost: \$75,000.
  2. Paint. Paint exterior and interior of facility, including specialized floor paint for the Sprung Structure. Estimated cost: \$80,000.
  3. Dining Hall AC System Replacement. Replace the AC system to meet the space demands. Estimated cost: \$25,000.
  4. Pet Station. Relocation of pet area from proximity of dining hall to perimeter. Estimated cost: \$5000.
  5. Dining Hall Furniture. Replace tables and chairs in the dining hall. Estimated cost: \$3500.
  6. Laundry Room Ventilation. Replace existing laundry room ventilation system. Estimated cost: \$3000.
  7. Security Cameras. Update existing, non-operational security camera system. Estimated cost: \$2500.
  8. Shade Cover. Replace shade cover for outdoor, recreation space. Estimated cost: \$1000.
  9. Replace or repair front office/navigator offices building. Estimated cost: \$500,000.
  10. Replace current restrooms. Estimated cost: \$750,000.

#### B. Standards of Care

- a. City shall implement and operate the HBNC in accordance with the Standards of Care through the term of the MOU.
- b. City shall request administrative and technical support from the County to ensure proper and timely implementation of the Standards of Care upon the effective date of the MOUS.
- c. City shall coordinate and collaborate with the County through the Grievance and Dispute Resolution Process, as outlined in the Standards of Care, as necessary, for all county referred participants at HBNC.
- d. City shall make county-referred participant files and administrative records available to the County, in a timely manner as requested, as part of the annual monitoring process of the Standards of Care.
- e. County acknowledges that HBNC does not currently provide the County preferred number of restrooms and hereby waives this requirement as applied to the HBNC.

C. As Available Beds Coordination

- a. City shall at minimum provide the County with access to five (5) As Available Beds for the Office of Care Coordination to refer Eligible Participants on a first-come, first-served basis.
- b. The City shall provide information on HBNC's bed availability, vehicle parking spots and pets and on a daily basis in order for the Office of Care Coordination to coordinate referrals.
- c. City shall work with the operator of the HBNC to establish a tracking process and workflow to ensure that referrals from the Office of Care Coordination are processed timely.
- d. City shall process referral forms (Attachment B) received from the Office of Care Coordination via email within 24 hours, Monday through Friday based on bed availability. A referral form received from the Office of Care Coordination during the weekend or holiday shall be processed by the City during the next business day.
- e. City social workers shall communicate with the Office of Care Coordination if the person being referred to HBNC is eligible and meets the criteria set forth in Section 5. Population to be Served.

D. Administrative Responsibilities.

- a. City shall provide to the County, by the twentieth (20<sup>th</sup>) calendar day following the end of the quarter, a quarterly report on Capital Improvement activities completed to date to the County. The reporting shall include a brief narrative detailing the capital improvement activities accomplished, activities in progress, along with any updates on challenges or expected delays, and financial reporting of expenditures.
- b. City shall provide daily occupancy reporting of the 5 As Available Beds to the County by 10 a.m. at the latest each day. The reporting should include the HMIS unique identifier and/or name of participant who vacated a bed if a new vacancy is being reported.
- c. City shall maintain accurate and complete financial records as a separate ledger for all HHAP Activity costs related to capital expenditure under the terms of this MOU, including payment processing and budget tracking, invoices, purchase orders, sources and uses of funds, terms and conditions of financing, and all supportive documentation submitted by subrecipients for reimbursement and change orders (as appropriate).
- d. City shall assist County with any monitoring and/or audits deemed necessary.
- e. City shall attend County training courses and conferences that will include, but not be limited to, new California Department of Housing and Community Development

regulations impacting HHAP funding and documentation of procedures and dissemination of changes to staff.

VII. COUNTY RESPONSIBILITIES.

- A. County will act as a pass-through agency for HHAP funds. Except for County's responsibility related to the HHAP Program as set forth in this MOU, City will be responsible for completing the capital improvements as set forth in this MOU.
- B. Standards of Care
  - a. County shall provide administrative and technical support to the City to ensure proper and timely implementation of the Standards of Care upon the effective date of the MOU.
  - b. County shall conduct annual monitoring of HBNC in accordance with the Standards of Care and will coordinate with the City for its scheduling.
- C. As Available Beds Coordination
  - a. County pre-screen potential participants for the HBNC based on the criteria outlined in Section 5. and the referral form.
  - b. County shall complete referral forms of potential participants for the HBNC and email the completed referral forms to the City.
  - c. County shall coordinate intake into HBNC with the City to ensure that no eligible participants walk up to the HBNC, but are instead transported in.
  - d. County shall continue to outreach to and engage any participant who exits the HBNC and is experiencing unsheltered homelessness in Huntington Beach.
- D. Administrative
  - a. County shall participate in meetings with the City to address any items as detailed in the MOU.

VIII. ELIGIBLE EXPENSES

- A. The amount of County Funds allocated to the City available under this MOU, effective upon the execution of the MOU, to June 30, 2027, in an amount not to exceed amount of \$500,000 be used for eligible capital improvements as described below.

Capital Improvement Activity	Budget	Expected Completion Date
Replacement of current restroom facilities.	\$500,000	June 30, 2028

IX. PAYMENT

- A. County shall pay City a grant amount of \$500,000 within 30 business days of the full execution of this MOU. All expenditure on the grant amount must be for Eligible Expenses as described in Section VIII of this MOU.
- B. It is understood that the County makes no commitment to funding this MOU beyond the terms set forth.

X. NON-DISCRIMINATION

- A. In the performance of this MOU, City agrees that it shall not engage nor employ any unlawful discriminatory practices in the admission of clients, provision of services or benefits, assignment of accommodations, treatment, evaluation, employment of personnel, or in any other respect, on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status, or any other protected group, in accordance with the requirements of all applicable federal or State laws.
- B. City shall furnish any and all information requested by County related to HHAP funding and shall permit County access, during business hours, to books, records, and accounts related to HHAP funding in order to ascertain City's compliance.
- C. City shall comply with Titles VI and VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; the Food Stamp Act of 1977, as amended, and in particular 7 Code of Federal Regulations (CFR) section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code Section 51 et seq., as amended; California Government Code (CGC) Sections 11135-11139.5, as amended; CGC Section 12940 (c), (h), (i), and (j); CGC Section 4450; Title 22, California Code of Regulations (CCR) Sections 98000-98413; the Dymally-Alatorre Bilingual Services Act (CGC Section 7290-7299.8); Section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable federal and State laws, as well as their implementing regulations (including Title 45 CFR Parts 80, 84, and 91; Title 7 CFR Part 15; and Title 28 CFR Part 42), and any other law pertaining to Equal Employment Opportunity, Affirmative Action, and Nondiscrimination, as each may now exist or be hereafter amended.

XI. SUBCONTRACTS

A. City shall not subcontract for services under this MOU without the prior written consent of County. If County consents in writing to a subcontract, in no event shall the subcontract alter, in any way, any legal responsibility of City to County. All subcontracts must be in writing and copies of same shall be provided to County, City shall include in each subcontract any provision County may require.

B. Subcontracts of \$50,000 or less

City shall develop a standard form Purchase Order, subject to prior written approval of County, to be utilized for the purchase of services by City when the cumulative total cost of the services to be provided by any organization anticipated to be fifty thousand dollars (\$50,000) or less during the term of this MOU. The basis for costs incurred by any such Purchase Order(s) shall be the actual cost of providing services or the usual and customary charges established by the organization(s) providing the services.

C. Subcontracts in excess of \$50,000

City shall develop and submit for approval to County a system for the procurement of subcontracts with any organization in which the total cumulative cost of services provided by any single organization is anticipated to exceed fifty thousand dollars (\$50,000) during the term of this MOU. City's proposed procurement system shall take into consideration such factors as: degree of price competition; pricing policies and techniques; experience and quality of service; methods of evaluating subcontractor responsibility; relationship of subcontractor to City planning, award, and post-award management of subcontracts, including internal audit procedures and monitoring of subcontractor's performance until completion of services.

D. Upon County's approval of City's proposed procurement system, City shall comply with such procurement system in obtaining subcontracts with a total cost in excess of fifty thousand dollars (\$50,000) during the term of this MOU.

E. City and its subcontractor(s) shall establish and maintain accurate and complete financial records related to services provided under the terms of this MOU. Such records may be subject to the satisfaction of County, and to the examination and audit by County or designee, for a period of five (5) years or until any pending audit is completed.

XII. CONFIDENTIALITY

A. All records and information concerning any and all persons referred to City by County or County's designee shall be considered and kept confidential by City, City's employees, agents, subcontractors, and all other individuals performing services under this MOU, and shall remain confidential consistent with all applicable Federal, State and local laws and regulations. City shall require all of its employees, agents, and subcontractors, and all other individuals performing services under this MOU to before

commencing the provision of any such services to agree to maintain confidentiality pursuant to this MOU.

- B. City shall inform all of its employees, agents, and subcontractors, and all other individuals performing services under this MOU, of this provision and that any person violating the provisions of said California state law may be guilty of a crime.
- C. City agrees that any and all subcontracts entered into shall be subject to the confidentiality requirements of this MOU.

XIII. PUBLICITY, LITERATURE, ADVERTISEMENTS AND SOCIAL MEDIA

- A. County owns all rights to the name, logos, and symbols of County. The use and/or reproduction of County's name, logos, or symbols for any purpose, including commercial advertisement, promotional purposes, announcements, displays, or press releases, without County's prior written consent is expressly prohibited.
- B. City may develop and publish information related to this MOU where all of the following conditions are satisfied, excepting City notification of the execution of, and reproduction of, this MOU, as subcontracted providers, is permissible:
  - a. County provides its written approval of the content and publication of the information at least 30 days prior to City publishing the information, unless a different timeframe for approval is agreed upon by County;
  - b. Unless directed otherwise by County, the information includes a statement that the program, wholly or in part, is funded through County, State and Federal Government funds;
  - c. The information does not give the appearance that the County, its officers, employees, or agencies endorse:
    - 1. Any commercial product or service; and,
    - 2. Any product or service provided by City, unless approved in writing by County; and
  - d. If City uses social media (such as Facebook, X, YouTube or other publicly available social media sites) to publish information related to this MOU, City shall develop social media policies and procedures and have them available to the County. City shall comply with County Social Media Use Policy and Procedures as they pertain to any social media developed in support of the services described within this MOU. The policy is available on the Internet at <http://www.ocgov.com/gov/ceo/cio/govpolicies>.

#### XIV. INDEMNIFICATION

- A. City agree to indemnify, defend, with counsel approved in writing by County, and hold the State, County, and their elected and appointed officials, officers, employees, agents, and those special districts and agencies which County's Board of Supervisors acts as the governing Board ('County INDEMNITEES') harmless from any claims, demands, or liability of any kind or nature, including, but not limited to, personal injury or property damage, arising from or related to the services, products, or other performance provided by City pursuant to this MOU. If judgment is entered against City and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, City and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

#### XV. INSURANCE

- A. Prior to the provision of services under this MOU, City agrees to purchase all required insurance at City's expense, including all endorsements required herein, necessary to satisfy County that the insurance provisions of this MOU have been complied with. City agrees to keep such insurance coverage, Certificates of Insurance and endorsements on deposit with County during the entire term of this MOU. In addition, all subcontractors performing work on behalf of City pursuant to this MOU shall obtain insurance subject to the same terms and conditions as set forth herein for City.
- B. City shall ensure that all subcontractors performing work on behalf of City pursuant to this MOU shall be covered under City's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for City. City shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from City under this MOU. It is the obligation of City to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by City through the entirety of this MOU for inspection by County representative(s) at any reasonable time.
- C. All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any SIR in an amount in excess of fifty thousand dollars (\$50,000), shall specifically be approved by the County of Orange Risk Manager, or designee, upon review of City's current audited financial report. If City's SIR is approved, City, in addition to, and without limitation of, any other indemnity provision(s) in the MOU, agrees to all of the following:
  - a. In addition to the duty to indemnify and hold County harmless against any and all liability, claim, demand or suit resulting from City's agents, employees or subcontractor's performance of this MOU, City shall defend County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
  - b. City's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

- c. The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and City's SIR provisions shall be interpreted as though City was an insurer and County was the insured.
- D. If City fails to maintain insurance acceptable to County for the full term of this MOU, County may terminate this MOU.
- E. Qualified Insurer:
  - a. The policy or policies of insurance required herein must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).
- F. If the Insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial rating.
- G. The policy or policies of insurance maintained by City shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Workers' Compensation	Statutory
Employer's Liability Insurance	\$1,000,000 per occurrence
Network Security & Privacy Liability	\$1,000,000 per claims made
Professional Liability Insurance	\$1,000,000 per claims made \$1,000,000 aggregate

H. Required Coverage Forms

- a. Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01 or a substitute form providing liability coverage at least as broad.
- b. Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20 or a substitute form providing coverage at least as broad.

I. Required Endorsements

- a. Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

1. An Additional Insured endorsement using ISO form CG 20 26 04 13, or a form at least as broad, naming the County of Orange, its elected and appointed officials, officers, agents and employees as Additional Insured or provide blanket coverage, which will state AS REQUIRED BY WRITTEN CONTRACT.
  2. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad, evidencing that City's insurance is primary, and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
- b. The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance.
1. An Additional Insured endorsement naming the County of Orange, its elected and appointed officials, officers, agents and employees as Additional Insured for its vicarious liability.
  2. A primary and non-contributing endorsement evidencing that the City's insurance is primary, and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
- J. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees or provide blanket coverage, which will state AS REQUIRED BY WRITTEN CONTRACT.
- K. All insurance policies required by this MOU shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.
- L. City shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the contract, upon which the County may suspend or terminate this MOU.
- M. If City's Professional Liability and/or Network Security and Privacy Liability policies are a "claims made" policy, City shall agree to maintain coverage for two (2) years following completion of this MOU.
- N. The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insured" clause (standard in the ISO CG 0001 policy).
- O. Insurance certificates should be mailed to County at the address indicated in Paragraph XX of this MOU.
- P. Failure of City to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/County Procurement Office or County, will result in a breach of

this MOU.

- Q. County expressly retains the right to require City to increase or decrease insurance of any of the above insurance types throughout the term of this MOU. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.
- R. County shall notify City in writing of changes in the insurance requirements. If City does not deposit copies of acceptable certificates of insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this MOU may be in breach without further notice to City, and County shall be entitled to all legal remedies.
- S. The procuring of such required policy or policies of insurance shall not be construed to limit City's liability hereunder nor to fulfill the indemnification provisions and requirements of this MOU, nor act in any way to reduce the policy coverage and limits available from the insurer.
- T. County has reviewed and approved the Insurance Certificate provided by City's service provider, Mercy House, a copy of which is attached hereto, and accepts such coverage in full satisfaction of the requirements of this Section XV.

## XVI. SECURITY

### A. Security Requirements

- a. City agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exists or exists at any time during the term of this MOU, so long as consistent with the requirements of Federal and State law, including, but not limited to, the California Public Records Act. City represents and warrants that it has implemented and will maintain during the term of this MOU, administrative, physical, and technical safeguards to reasonably protect private and confidential client information, to protect against anticipated threats to the security or integrity of County data, and to protect against unauthorized physical or electronic access to or use of County data. Such safeguards and controls shall include at a minimum:
  - 1. Storage of confidential paper files that ensures records are secured, handled, transported, and destroyed in a manner that prevents unauthorized access.
  - 2. Control of access to physical and electronic records to ensure County data is accessed only by individuals with a need to know for the delivery of MOU services.
  - 3. Control to prevent unauthorized access and to prevent City employees from providing County data to unauthorized individuals.
  - 4. Firewall protection.

5. Use of encryption methods of electronic County data while in transit from City networks to external networks, when applicable.
6. Measures to securely store all County data, including, but not limited to, encryption at rest and multiple levels of authentication and measures to ensure County data shall not be altered or corrupted without County's prior written consent. City further represents and warrants that it has implemented and will maintain during the term of this MOU administrative, technical, and physical safeguards and controls consistent with State and federal security requirements.

B. Security Breach Notification

- a. City shall have policies and procedures in place for the effective management of Security Breaches, as defined below. In the event of any actual, attempted, suspected, threatened, or reasonably foreseeable circumstance City experiences or learns of that either compromises or could reasonably be expected to comprise County data through unauthorized use, disclosure, or acquisition of County data ("Security Breach"), City shall immediately notify County of its discovery. After such notification, City shall, at its own expense, immediately:
  1. Investigate to determine the nature and extent of the Security Breach.
  2. Contain the incident by taking necessary action, including, but not limited to, attempting to recover records, revoking access, and/or correcting weaknesses in security.
  3. Report to County the nature of the Security Breach, the County data used or disclosed, the person who made the unauthorized use or received the unauthorized disclosure, what City has done or will do to mitigate any harmful effect of the unauthorized use or disclosure, and the corrective action City has taken or will take to prevent future similar unauthorized use or disclosure.
- b. The County, at its sole discretion and on a case-by-case basis, will determine what actions are necessary in response to the Security Breach and who will perform these actions. Actions may include, but are not limited to: notifications; investigation and remediation costs, including notification of all whose personal information was disclosed; outside investigation; forensics; counsel; crisis management; and credit monitoring. In the event County determines City will conduct additional action(s), City shall bear the costs. In the event County conducts additional actions(s) arising out of or in connection with a Security Breach, City shall reimburse County for costs associated to legally required actions.

XVII. NOTIFICATION OF INCIDENTS, CLAIMS, OR SUITS

City shall report to County, in writing within twenty-four (24) hours of occurrence, the following:

- A. Any accident or incident relating to services performed under this MOU that involves injury or property damage which may result in the filing of a claim or lawsuit against City and/or County.
- B. Any third-party claim or lawsuit filed against City arising from or relating to services performed by City under this MOU.
- C. Any injury to an employee of City that occurs on County property.
- D. Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies, or securities entrusted to City under the term of this MOU.

XVIII. RECORDS

A. Client Records

- a. City shall prepare and maintain accurate and complete records, or provide the same to County if services are provided by another organization, of clients served and dates and type of services provided under the terms of this MOU in a form acceptable to County.
- b. City shall keep all County data provided to City during the term(s) of this for a minimum of five (5) years from the date of final payment under this MOU or until all pending County, State, and federal audits are completed, whichever is later. These records shall be stored in Orange County, unless City requests and County provides written approval for the right to store the records in another County. Notwithstanding anything to the contrary, upon termination of this MOU, City shall relinquish control with respect to County data to County in accordance with Subparagraph B.

B. Public Records

- a. To the extent permissible under the law, all records, including, but not limited to, reports, audits, notices, claims, statements, and correspondence, required by this MOU may be subject to public disclosure pursuant to the California Public Records Act, or other applicable law. County will not be liable for any such disclosure.

XIX. PERSONNEL DISCLOSURE

- A. This Paragraph XIX applies to all of City's personnel providing services through this MOU, paid and unpaid (herein referred to as "Personnel").
- B. City shall make available to County a current list of all Personnel providing services hereunder, including résumés and job applications. Changes to the list will be immediately provided to County in writing, along with a copy of a résumé and/or job application. The list shall include:
  - a. Names and dates of birth of all Personnel by title, whose direct services are required to provide the programs described herein;

- b. A brief description of the functions of each position and the hours each person works each week, or for part-time Personnel, each day or month, as appropriate;
  - c. The professional degree, if applicable, and experience required for each position; and
  - d. The language skill, if applicable, for all Personnel.
- C. Where authorized by law, and in a manner consistent with California Government Code §12952, City shall require prospective Personnel to provide detailed information regarding the conviction of a crime, by any court, for offenses other than minor traffic offenses. Information discovered subsequent to the hiring or promotion of any prospective Personnel shall be cause for termination from the performance of services under this MOU.
- D. Where authorized by law, City shall conduct, at no cost to County, a criminal record background check on all Personnel who will have direct, interactive contact with clients served through this MOU. Background checks conducted through the California Department of Justice shall include a check of the California Central Child Abuse Index, when applicable. Candidates will satisfy background checks consistent with this Paragraph and their performance of services under this MOU.
- E. City shall ensure that clearances and background checks described in Subparagraphs 21.3 and 21.4 are completed prior to City's Personnel providing services under this MOU.
- F. In the event a record is revealed through the processes described in Subparagraphs 20.1 and 20.2, County will be available to consult with City on appropriateness of Personnel providing services through this MOU.
- G. City warrants that all Personnel assigned by City to provide services under this MOU have satisfactory past work records and/or reference checks indicating their ability to perform the required duties and accept the kind of responsibility anticipated under this MOU. City shall maintain records of background investigations and reference checks undertaken and coordinated by City for Personnel assigned to provide services under this MOU, for a minimum of five (5) years from the date of final payment under this MOU, or until all pending County, State, and federal audits are completed, whichever is later, in compliance with all applicable laws.
- H. City shall immediately notify County concerning the arrest and/or subsequent conviction, for offenses, other than minor traffic offenses, of any Personnel performing services under this MOU, when such information becomes known to City. County, in its sole discretion, may raise concerns about whether such Personnel may continue to provide services under this MOU and shall provide such concerns to City in writing. City will consider such concerns in good faith.
- I. City retains sole authority over the hiring, supervision, discipline, and removal of City's Personnel performing work hereunder, and any proposed changes in City's Personnel.
- J. City shall notify County immediately when Personnel is terminated for cause from working

on this MOU.

- K. Disqualification of City Personnel shall not relieve City of its obligation to complete all work in accordance with the terms and conditions of this MOU.

XX. NOTICES

All notices, requests, claims correspondence, reports, statements authorized or required by this MOU, and/or other communications shall be addressed as follows:

COUNTY:  
County of Orange  
County Procurement office  
400 West Civic Center Drive., 3rd Floor  
Santa Ana, CA 92701  
Email address:

CITY:  
Attn: TBD  
Address: TBD  
Email:

All notices shall be deemed effective when in writing and deposited in the United States mail, first class, postage prepaid and addressed as above. Any communications, including notices, requests, claims, correspondence, reports, and/or statements authorized or required by this MOU, addressed in any other fashion shall be deemed not given. The Parties each may designate by written notice from time to time, in the manner aforesaid, any change in the address to which notices must be sent.

XXI. CONFLICT OF INTEREST

City shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to City; the City's employees, agents, and subcontractors associated with accomplishing work and services hereunder. City's efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.

XXII. POLITICAL ACTIVITY

City agrees that the funds provided herein will not be used to promote, directly or indirectly, any political party, political candidate, or political activity, except as permitted by law.

XXIII. TERMINATION

- A. County may terminate this MOU without penalty, immediately with cause or after thirty (30) days' written notice without cause, unless otherwise specified. Notice shall be deemed served on the date of mailing. Cause shall include, but not limited to, any breach of this MOU, any partial misrepresentation whether negligent or willful, fraud on the part of City, discontinuance of the services for reasons within City's reasonable control, and repeated or continued violations of County ordinances unrelated to performance under this MOU that, in the reasonable opinion of County, indicate a willful or reckless disregard for County laws and regulations. Exercise by County of the right to terminate this MOU shall relieve County of all further obligations under this MOU.
- B. For ninety (90) calendar days prior to the expiration date of this MOU, or upon notice of termination of this MOU ("Transition Period"), City agrees to cooperate with County in the orderly transfer of service responsibilities, case records, and pertinent documents. The Transition Period may be modified as agreed upon in writing by the Parties. During the Transition Period, services and data access shall continue to be made available to County without alteration. City also shall assist County in extracting and/or transitioning all data in the format determined by County.
- C. In the event of termination of this MOU, cessation of business by City, or any other event preventing City from continuing to provide services, City shall not withhold the County data or refuse for any reason, to promptly provide to County the County data if requested to do so on such media as reasonably requested by County, even if County is then or is alleged to be in breach of this MOU.
- D. The obligations under this MOU utilize County resources, for which funding, or portions of funding, may be contingent upon the State and/or federal budget; receipt of funds from and/or obligation of funds by the State and/or Federal Government; and inclusion of sufficient funding for the services hereunder in the budget approved by the County's Board of Supervisors for each fiscal year covered by this MOU. If such approval, funding, or appropriations are not forthcoming, or are otherwise limited, County may terminate, reduce, or modify this MOU without penalty.
- E. If any term, covenant, condition, or provision of this MOU or the application thereof is held invalid, void, or unenforceable, the remainder of the provisions in this MOU shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

XXIV. SIGNATURE IN COUNTERPARTS

The Parties agree that separate copies of this MOU may be signed by each of the Parties, and this MOU will have the same force and effect as if the original had been signed by all Parties. City represents and warrants that the person executing this MOU on behalf of and for City is an authorized agent who has actual authority to bind City to each and

every term, condition and obligation of this MOU and that all requirements of City have been fulfilled to provide such actual authority.

XXV. GENERAL PROVISIONS

- A. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between County and any participant participating in the HBNC, or any of City's agents or employees.
- B. This MOU, with its Exhibit(s) incorporated herein by reference represents the entire understanding of the Parties with respect to the subject matter. No change, modification, extension, termination or waiver of this MOU, or any of the understandings herein contained, shall be valid unless made in writing and signed by duly authorized representatives of the Parties hereto.
- C. This MOU has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this MOU, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.
- D. In the performance of this MOU, City shall comply with all applicable laws and regulations of the United States, State of California, County of Orange, and all administrative regulations, rules, and policies adopted thereunder, as each and all may now exist or be hereafter amended.
- E. In the performance of this MOU, City may neither delegate its duties or obligations nor assign its rights, either in whole or in part, without the prior written consent of County. Any attempted delegation or assignment without prior written consent shall be void.
- F. The various headings, numbers, and organization herein are for the purpose of convenience only and shall not limit or otherwise affect the meaning of this MOU.

WHEREFORE, the Parties hereto have executed the MOU in the County of Orange, California.

By: \_\_\_\_\_  
Douglas Becht  
County of Orange, County Executive Office  
Office of Care Coordination

Dated: \_\_\_\_\_

Approved As To Form  
CEO Counsel  
County of Orange, California

By: \_\_\_\_\_  
Deputy

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
City Manager  
City of Huntington Beach

Dated: \_\_\_\_\_

Approved As To Form  
Office of the City Attorney, City of  
Huntington Beach

By: \_\_\_\_\_  
City Attorney *KL*

Dated: \_\_\_\_\_