



Interoffice Memorandum

June 18, 2020

AGENDA ITEM

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

THRU: Lonnie C. Bell, Jr., Director *Lonnie C Bell*
Community and Family Services Department

FROM: Donna Wyche, Manager
Mental Health and Homeless Division
Contact: 407-836-7608

SUBJECT: Consent Agenda – July 7, 2020
Memorandum of Understanding with Heart of Florida United Way for operation of the Orlando United Assistance Center

In response to the deadly mass shooting at the Pulse nightclub, the Orlando United Assistance Center (OUAC) was established on July 11, 2016. The role of the OUAC is to serve as a navigation point and to provide one-on-one support to assess the needs, provide information, and coordinate support for those affected by the mass shooting.

With the OUAC moving to its fourth year, Orange County is part of a stakeholders group (which includes the Agency (Heart of Florida United Way), Central Florida Foundation, the City of Orlando, and Osceola County) that has determined that this would be an appropriate time to survey and convene focus groups with survivors and those affected by the tragedy to determine the most needed services and to assess the most effective service delivery system. Consequently, the stakeholders group has proposed continuing current OUAC operations through September 30, 2020. Continuing operations through September 30, 2020 will allow OUAC to continue its current staffing level and Services during the survey and focus groups and create a more seamless transition to the next iteration of services to those impacted by the Pulse tragedy.

The total budget for the continued operation of OUAC at current staffing (1 receptionist, 2 case managers, and 1 part-time Licensed Clinical Social Worker) for February 1, 2020 through September 30, 2020 is \$227,555. Orange County shall pay the Agency \$29,500 in accordance with the terms of this Agreement and continue the lease, data and maintenance of the Property (valued at approximately \$50,000) in accordance with the Lease Agreement. The Agency shall be responsible for securing the remaining operational costs and shall contribute approximately \$57,685 of its own funds to operate the OUAC during the Period of Performance.

Consent Agenda – July 7, 2020

Memorandum of Understanding with Heart of Florida United Way for operation of the Orlando United Assistance Center

The Agency will secure the remaining operational costs from the other members of the stakeholders group in the following amounts:

\$57,685	Central Florida Foundation, Inc.;
\$57,685	City of Orlando; and
\$25,000	Osceola County, Florida.

We are requesting approval of the Memorandum of Understanding with the Heart of Florida United Way.

ACTION REQUESTED: Approval and execution of 1) Agreement between Orange County, Florida; and Heart of Florida United Way, Inc. related to providing funding for the Orlando United Assistance Center and 2) Business Associate Addendum Business Associate Agreement between Orange County, Florida and Heart of Florida United Way, Inc. related to provision of adequate assurances of compliance with the Health Insurance Portability and Accountability Act (“HIPAA”) Privacy, Breach, and Security Rules, the Health Information Technology for Economic Health Act (“HITECH”) Breach Notification Rules, and the Florida Information Protection Act of 2014 (“FIPA”) in the amount of \$29,000 through September 30, 2020.

DW/ht:jam

Attachment

c: Randy Singh, Deputy County Administrator

AGREEMENT

between

ORANGE COUNTY, FLORIDA;

and

HEART OF FLORIDA UNITED WAY, INC.

related to

PROVIDING FUNDING FOR THE ORLANDO UNITED ASSISTANCE CENTER

THIS AGREEMENT (the “**Agreement**”) is entered into by and between **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, located at 201 South Rosalind Avenue, Orlando, Florida 32801, on behalf of its Community and Family Services Department’s Office of Mental Health and Homelessness Division (the “**County**”), and **HEART OF FLORIDA UNITED WAY, INC.**, a not-for-profit corporation under the laws of the State of Florida, located at 1940 Cannery Way, Orlando, Florida 32804 (the “**Agency**”). The County and the Agency may be referred to individually as “party” or collectively as “parties.”

RECITALS

WHEREAS, the County is committed to ensuring that quality mental health services for children and families are available and accessible in the community; and

WHEREAS, the County collaborates with community partners and organizations to accomplish its goals; and

WHEREAS, the Orlando United Assistance Center (“**OUAC**”) is a community organization that was established on July 11, 2016 in response to the tragic mass shooting at the Pulse nightclub (“**Pulse**”); and

WHEREAS, the OUAC serves as a navigation point to provide one-on-one support to assess the needs, provide information, and coordinate mental health services for people in the community affected by Pulse; and

WHEREAS, the County, Agency, City of Orlando (“**City**”), Osceola County, Florida (“**Osceola**”), and Central Florida Foundation, Inc. (“**CFF**”) all serve together as the OUAC’s stakeholder group; and

WHEREAS, the Agency has contracted with the City since 2016 to act as the administrator and managing partner responsible for operating the OUAC and providing services in accordance with the Agency’s proposal, a copy of which is attached to this Agreement as **Attachment “1”** (“**Proposal**”); and

WHEREAS, the County entered into a license agreement with the Agency on August 23, 2016 to grant the Agency exclusive use of a County-owned property located at 507 East Michigan Street, Orlando, Florida 32806 (the “**Property**”) to operate the OUAC as the OUAC’s primary administrator and manager, a copy of which is attached to this Agreement as **Attachment “2”** (“**License Agreement**”); and

WHEREAS, the County has determined that collaborating with the Agency to continue to provide mental health services to the community through the OUAC is in the interest of the public health, safety, and welfare; and

WHEREAS, the parties desire to enter into this Agreement to continue the OUAC’s current staffing level, its provision of services, and to survey and convene focus groups with survivors and those affected by Pulse to determine what services are needed in the future and the best way for those services to be provided.

NOW THEREFORE, in mutual covenants set forth in this Agreement, the sufficiency of which is hereby acknowledged, the parties agree as follows:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated as material part of this Agreement by reference.

Section 2. **Documents.**

- A. The documents that are hereby incorporated by either reference or attachment and therefore form this Agreement are:
1. This Agreement;
 2. **Exhibit “A”**: Scope of Services;
 3. **Exhibit “B”**: Leased Employee Affidavit;
 4. **Attachment “1”**: Proposal;
 5. **Attachment “2”**: License Agreement; and
 6. Business Associate Addendum.

Section 3. **Services.**

- A. The Agency shall provide services as outlined in the *Scope of Services* attached to this Agreement as **Exhibit “A”** and shall do so in a manner that is satisfactory to the County, in accordance with this Agreement and the License Agreement, and compliant with applicable federal, State, and local laws, rules, and regulations.
- B. The County’s liaison (the “**County Liaison**”) during the performance of this Agreement shall be Donna Wyche, (407) 836-7608. The County reserves the right to substitute the County Liaison by providing the Agency written notice of such substitution pursuant to the Notices section of this Agreement.

- C. The Agency's liaison (the "**Agency Liaison**") during the performance of this Agreement shall be Raymond Larsen, (407) 835-0900. Any substitution of the Agency Liaison shall be done by the Agency providing the County a written notice of such substitution pursuant to the "Notice" provision of this Agreement.
- D. Reports, invoices, or any other requisite documents shall be completed in accordance with this Agreement and **Exhibit "A"** and, unless otherwise specified in a specific provision of this Agreement, shall be delivered by the Agency to the County Liaison.
- E. **Personnel.** The Agency represents that it has, or will secure, all necessary personnel required to perform the Services under this Agreement. Such personnel shall not be, nor shall they in any way be construed to be, employees of the County, nor shall they be considered in any way to have any contractual relationship with the County.
1. All of the Services required under this Agreement shall be performed by the Agency or under its supervision, and all personnel engaged in performing the Services shall be fully qualified and, if required, authorized or permitted under federal, State, and local law to perform such Services.
- F. The Agency shall use its best efforts to obtain all supplies and Services for use in the performance of this Agreement at the lowest practicable cost.
- G. The Agency shall notify the County, in writing, if sufficient staff, facilities, and equipment necessary to deliver the agreed upon Services cannot be maintained. Failure to notify the County of any such deficiencies or to adequately provide the Services described in **Exhibit "A"** shall be considered a breach of this Agreement and may constitute grounds for termination in accordance with the "Termination" Section of this Agreement.
- H. The County may request changes to the *Scope of Services*, including alterations, reductions, or additions to Services. Upon receipt by the Agency of the County's notification of a contemplated change, the Agency shall (1) if requested by the County, provide an estimate for the increase or decrease in cost due to the County's contemplated change, (2) notify the County of any estimated change in the completion date, and (3) advise the County in writing if the contemplated change will affect the Agency's ability to meet the completion dates or schedules in this Agreement. No changes will become effective until a written amendment or change order has been issued and signed by each of the parties.

Section 4. Background Screening.

- A. The Agency shall ensure that all staff, employees, guests, invitees, third party providers, volunteers, and other individuals engaged in the provision of Services to children and other vulnerable persons, as defined in Section 435.02, Florida Statutes, under this Agreement completes all background screens required by Florida law and regulations published by the

Florida Department of Children and Families, including Level II background screenings in accordance with Section 435.04, Florida Statutes.

- B. All individuals in paid or unpaid positions that require Level II background screens shall be subject to and shall complete such screens prior to access, supervision, or direct care of any children under this Agreement. Screens shall include an initial Level II background screening with additional Level II background screenings performed thereafter at five (5) year intervals.
- C. Level II background screens consist of an employment history check and fingerprinting. Fingerprinting is used to process the following screenings:
 - 1. Statewide Criminal and Juvenile Records Check through the Florida Department of Law Enforcement;
 - 2. Federal Criminal Records Check through FBI; and
 - 3. May include Local Criminal Records Check through Local Law Enforcement.
- D. If applicable, the Agency shall provide the County with confirmation that the Level II background screen has been conducted and that the results are acceptable to both parties. The Agency will make copies of the completed background screens for individuals performing Services under this Agreement available to the County upon request.

Section 5. Term, Period of Performance, Renewal, and Termination.

- A. **Term.** The term of this Agreement shall commence on the date of execution by both parties and shall expire September 30, 2020 (“**Term**”), unless otherwise terminated by the parties pursuant to this Section.
- B. **Period of Performance.** The period of performance for this Agreement shall begin on February 1, 2020 and shall end on September 30, 2020, unless extended by mutual written agreement of the parties (“**Period of Performance**”). All Services must be provided during the Period of Performance.
- C. **Renewal.** The Term and Period of Performance of this Agreement may be renewed for one (1) one (1) year period upon mutual written agreement of the parties. The Agency shall notify the County of any intent to renew this Agreement no less than thirty (30) days prior to the Agreement’s termination.
- D. **Termination for Convenience.** Either party may terminate this Agreement at will or for its convenience by providing the non-terminating party with thirty (30) days written notice with such notice period beginning upon the non-terminating party’s receipt of the requisite notice. Should the either party exercise its right to terminate this Agreement for convenience, the County will only be responsible for paying the Agency an amount prorated to the date of termination, and the Agency will return Funds (as later defined) to the County prorated to the

date of termination.

- E. **Lack of Funding.** In the event funds to finance all or part of this Agreement do not become available, obligations of each party to this Agreement may be terminated by the County upon receipt by the Agency of the County's notice. The County shall be the sole and final authority as to the determination of the availability of funds and as to how any available funds will be allocated among its various service providers.
- F. **Termination for Cause.** The County may terminate the whole or any part of this Agreement for cause, with such termination being effective upon the Agency's receipt of the notice of termination, by providing written notice to the Agency of such termination if:
1. The Agency fails to provide Services called for by this Agreement within the time specified in this Agreement, or in any extension of this Agreement; or
 2. The Agency materially breaches any term of this Agreement, as determined at the sole discretion of the County; or
 3. The County, in its sole discretion, determines that termination of this Agreement is in the best interest of the beneficiaries, if any, of the Services contemplated in this Agreement.
- G. **Opportunity to Cure.** The County may, at its sole discretion, provide the Agency with a Notice to Cure a breach of this Agreement. If the Agency fails to cure the breach to the County's satisfaction within the time provided in the Notice to Cure, the County may terminate this Agreement for cause.
- H. **In the Event of Termination.** After receipt of a notice of termination, except as otherwise directed, the Agency shall:
1. Remit to the County, within fourteen (14) calendar days, any funds paid, prorated as of the date of termination.
 2. Stop working under this Agreement on the date of receipt and to the extent specified in the notice of termination.
 3. Place no further orders or subcontracts to the extent that they relate to the performance of the work, which was terminated.
 4. Terminate all orders and subcontracts to the extent that they relate to the performance of the work, which was terminated.
 5. Handle all Agreement-related property as directed by the County.
 6. Finalize all necessary up to date reports and documents required under the terms of

this Agreement up to the date of termination, up to and including the final expenditure report due at the end of the Agreement term, if any, without reimbursement beyond that due as of the date of termination for services rendered to the termination date.

7. Take any other actions as directed in writing by the County.

I. **Transition of Provision of Care.** If this Agreement entails funding for the provision of care to any clients or patients, in the event of termination – whether for cause or for convenience – the Agency shall work in good faith with the County to facilitate the transition of those clients or patients to another entity, if applicable or necessary.

Section 6. Funding.

- A. **Availability of Funding.** The source of funding for this Agreement is County general revenue funds. The Agency acknowledges that the County's performance and obligation to pay under this Agreement is contingent upon an annual appropriation for its purpose by the Board of County Commissioners, or other specified funding source for this procurement. Execution of this Agreement does not guarantee funding for Services in subsequent years of this Agreement if renewed.
- B. The total amount of funds provided for under this Agreement shall be for an amount not to exceed twenty-nine thousand five hundred dollars (\$29,500.00) ("**Funds**").
- C. Unless otherwise provided with written notification from the County, the Agency shall not be authorized to incur costs exceeding the approved Agreement amount issued by the County on a Purchase Order ("PO"). The Agency shall ensure that it is notified by a grantee of any changes to the dollar amount on the PO. In no event shall a PO authorize the reimbursement of costs exceeding the total award amount defined in this Section.
- D. Any increase to the Funds awarded under this Agreement shall require an amendment to this Agreement that must be approved by the County in writing and executed by both parties. Requests for reimbursement that exceed this Agreement's Funds, without an approved PO or executed amendment, may be denied at the County's sole discretion.
- E. If the County, in its sole discretion, determines that the Agency is not utilizing the Funds provided for under this Agreement in a satisfactory manner, then the County may reduce or otherwise alter the funding amount of this Agreement. The County will notify the Agency of any modification of funding in accordance with the Notices section of this Agreement, and the Agency will return all Funds to the County.
- F. Funds received under this Agreement must be used solely for the provision, coordination, brokering, or administration of permissible Services as contemplated in this Agreement. The use of Funds for any Services other than those described in this Agreement and **Exhibit "A"**

will be deemed a breach and may result in the termination of this Agreement at the County's sole discretion.

- G. The Agency shall return any and all Funds to the County received under this Agreement for Services provided to any individual or family with incomplete eligibility documentation or deemed ineligible for Services at the County's sole discretion.
- H. The Agency acknowledges that any remaining or unspent Funds awarded under this Agreement may not be carried over to the next Agreement term if this Agreement is renewed or extended, at the County's sole discretion. The Agency will return any Funds not spent within the Agreement Term to the County.
- I. Any additional costs or expenses incurred by the Agency that exceed the Funds amount will be the sole responsibility of the Agency. No additional funds will be provided to the Agency by the County for any such costs or expenses.

Section 7. Budget and Request for Payment.

- A. As a condition precedent to the Agency receiving payment under this Agreement, the Agency shall simultaneously submit to the County and Orange County Comptroller, in accordance with the "Notices" Section of this Agreement, both: (1) a detailed line-item expense budget that describes how the Agency will use the Funds, and (2) a letter requesting payment.
- B. The Agency shall submit its budget and request for payment to the County within thirty (30) days of this Agreement's execution by both parties. Failure to submit a timely budget and request for payment could result in a delay or denial of payment, at the County's sole discretion.
- C. The Agency understands that any unspent funds for the Term of this Agreement will not be carried forward to any subsequent or additional terms, should the Agreement be extended.
- D. The Agency shall be responsible for maintaining the following in its records for monitoring and audit purposes:
 - 1. A spreadsheet providing the required information as described in this Agreement and **Exhibit "A"**;
 - 2. Copies of all receipts and cancelled checks evidencing proof of payment; and
 - 3. Records of all expenses and supporting documentation in sufficient detail for the County to verify and validate that the expenses were incurred.

Section 8. Payment.

- A. Upon receipt of the Agency's budget and request for payment, the County will make a one-time, lump-sum payment of twenty-nine thousand five hundred dollars (\$29,500.00) to the Agency.
- B. This is a one-time payment Agreement. The County shall pay the Agency the Funds to provide Services in accordance with the terms and conditions of this Agreement for a total amount of twenty-nine thousand five hundred dollars (\$29,500.00). Any expenses or costs incurred by the Agency that exceed the total Agreement amount will be the sole responsibility of the Agency.
- C. The County shall pay the Agency for Services performed by the Agency during the Performance Period, contingent upon the Agency's compliance with all of the terms and conditions of this Agreement. The Agency shall not be entitled to payment for any work or Services that do not comply with the provisions of this Agreement or that are found by the County, in its sole discretion, to be unsatisfactory, or performed in violation of federal, State or local law, ordinance, or regulation.
- D. **Local Government Prompt Payment Act.** The County shall make payments to the Agency for work performed, or services provided, pursuant to this Agreement, in accordance with the Local Government Prompt Payment Act, Section 218.70 et. seq, Florida Statutes.
- E. The Agency expressly understands that it is liable for, and accepts responsibility for repayment of, any funds disbursed under the terms of this Agreement that may be deemed to have been disbursed in error. Repayment by the Agency to the County shall be within ninety (90) calendar days from the date of demand by the County. Failure by the Agency to comply with this requirement shall be a breach of contract and may result in the County withholding or denying future payments and may affect the Agency's ability to receive future funding opportunities from the County.
- F. The County shall periodically review Agency expenditures to ensure that Funds are expended by the end of the Agreement Term. The Agency shall fully comply with these periodic reviews.

Section 9. Indemnity, Sovereign Immunity, Liability, and Independent Contractor.

- A. **Indemnity.** To the fullest extent permitted by law, the Agency shall defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost, and expenses (including attorneys' fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the Agency or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable. Subject to the foregoing, each party shall be liable for any negligent act or omission by its officers, directors, agents, or employees and shall indemnify, defend, and hold harmless the other party and its officers,

agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising solely from such negligent act or omission. It is agreed by the parties that specific consideration has been paid under this Agreement for this provision.

- B. No Waiver of Sovereign Immunity.** Nothing contained in this provision, or in any provision of this Agreement, shall constitute, or be in any way construed to be, a waiver of the County's sovereign immunity or the protections and provisions of Section 768.28, Florida Statutes.
- C. Liability.** In no event shall the County be responsible to the Agency for any indirect damages, incidental damages, consequential damages, exemplary damages of any kind, lost goods, lost profits, lost business, or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty, or a breach of term of this Agreement.
- D. Independent Contractor.** The parties agree that the relationship between the County and the Agency that is established by this Agreement is that of independent contractors. Nothing in this Agreement shall be construed to create any agency or employment relationship between the County or any of its employees and the Agency or any of its employees. Neither party shall have any right, power or authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other.

Section 10. Insurance.

- A.** The Agency agrees to maintain, on a primary basis, at all times throughout the duration of this Agreement, the following types of insurance coverage with limits and on forms (including endorsements) as described in this Agreement. These requirements, as well as the County's review or acceptance of insurance maintained by the Agency, are not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by the Agency under this Agreement.
- B.** The Agency shall require and ensure that each of its subcontractors/consultants providing services under this Agreement (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits sufficient to protect the interest of the County and the Agency.
- C.** The Agency shall have in force the following insurance coverage, and will provide Certificates of Insurance to the County prior to commencing operations under this Agreement to verify such coverage:
- 1. Workers' Compensation** – The Agency shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employers' Liability. Said coverage shall

include a waiver of subrogation in favor of the County if services are being provided at County facilities. Elective exemptions as defined in Chapter 440, Florida Statutes, will be considered on a case-by-case basis. Any Agency using an employee leasing arrangement shall complete the Leased Employee Affidavit attached to this Contract as **Exhibit "B."**

2. **Commercial General Liability** – The Agency shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than \$500,000 per occurrence. Agency further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds.
3. **Business Automobile Liability** – The Agency shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with limits of not less than \$500,000 per accident. In the event the Agency does not own automobiles, the Agency shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.
4. **Professional Liability** – Any agency, organization, or individual providing professional services (i.e., medical, counseling, etc.) under this Contract shall provide Professional Liability coverage with limits of not less than \$1,000,000 per occurrence.
 - D. When a self-insured retention or deductible exceeds \$100,000 (One Hundred Thousand Dollars) the County reserves the right to request a copy of the Agency's most recent annual report or audited financial statement.
 - E. The Agency agrees to endorse the County as an Additional Insured with a CG 20 26 Additional Insured – Designated Person or Organization endorsement, or its equivalent to all commercial general liability policies. The additional insured shall be listed in the name of Orange County, Florida. (Note: If blanket endorsements are being submitted, please include the entire endorsement and the applicable policy number.)
 - F. Insurance carriers providing coverage required in this Agreement must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better. (Note: State licenses can be checked via www.floir.com/companysearch and www.ambest.com.)
 - G. Any request for an exception to these insurance requirements must be submitted in writing to the County for approval.

H. No material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County.

1. The County uses a third-party certificate management provider to manage its insurance certificates and related documentation. Upon insurance expiration, third-party certificate management staff will notify the Agency to request updated insurance certificate(s) and endorsement(s).
2. The Agency shall provide to the County current certificates of insurance evidencing all required coverage prior to execution and commencement of any operations or services provided under this Agreement. In addition to the certificate(s) of insurance the Agency shall also provide copies of the additional insured endorsements and the waiver of subrogation endorsements as required. Blanket additional insured or waiver of subrogation policy language may be submitted for consideration as long as the entire policy form or endorsement is submitted for review.
3. For continuing service contracts renewal certificates, shall be submitted upon request by either the County or its certificate management representative. The certificate(s) shall clearly indicate that the Agency has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. Acceptable evidence may include either a certificate of insurance or an insurance binder. Additional insured and waiver of subrogation endorsements shall be provided to the County as soon as possible after issuance by the Agency's insurance carrier.
4. The certificate holder shall read:

Orange County, Florida
Attention: Procurement Division
400 East South Street
Orlando, Florida 32801

Section 11. Records Management and Public Records.

- A. **Records Management.** The Agency acknowledges that the Agency, and any and all of its subcontractors providing services, or otherwise performing, pursuant to this Agreement, shall abide by the requirements of this "Records Management" provision.
1. **Maintenance.** In the performance of this Agreement, the Agency shall establish and maintain separate books, records, and accounts of all activities related to this Agreement, in compliance with generally accepted accounting and record maintenance procedures.
 2. **Retention.** Books, records, and accounts related to the performance of this

Agreement shall be retained by the Agency for a period of five (5) years after termination of this Agreement, unless this Agreement is the subject of litigation, at which point the Agency shall retain such books, records, and accounts for a period of five (5) years after the conclusion of any such litigation.

3. **Access.** Books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the County.

B. Public Records. Pursuant to Section 119.0701, Florida Statutes, the Agency must:

1. Keep and maintain public records required by the County to perform the service.
2. Upon request from the County, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the amount set by Florida Statutes.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement's term and following completion of the Agreement if the Agency does not transfer the records to the County.
4. Upon completion of the Agreement, transfer to the County all public records in possession of the Agency or keep and maintain public records required for the performance of the service(s) contemplated under this Agreement at no cost to the County.
5. If the Agency transfers all public records to the County upon completion of the Agreement, the Agency shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Agency keeps and maintains public records upon completion of this Agreement, the Agency shall meet all applicable requirements for retaining public records.
6. All records stored electronically must be provided to the County, upon request from the County, in a format that is compatible with the information technology systems of the County.

IF THE AGENCY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE AGENCY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE AGENCY SHALL CONTACT THE PUBLIC RECORDS COORDINATOR AT PROCUREMENT PUBLIC RECORDS LIAISON, 400 E. SOUTH STREET, 2ND FL., ORLANDO, FL 32801; (407) 836-5897; PROCUREMENTRECORDS@OCFL.NET.

Section 12. HIPAA, Security Rules, the Florida Information Protection Act, and Confidentiality.

- A. Under this Agreement, each party will limit its transmission of data to the other party only to data that either:
1. Is not protected health or personally identifiable information; or
 2. Has been “de-identified” in compliance with the HIPAA Safe Harbor Standard, 45 C.F.R. § 165.514.
- B. Should the need for the transmission of protected health or personally identifiable information arise pursuant to this Agreement, the party transmitting that protected health or personally identifiable information shall ensure – before that transmission – that:
1. A Business Associate Agreement is executed; and
 2. All the protections of the HIPAA Privacy and Security Rules and the Florida Information Protection Act have been properly executed.
- C. The Agency shall keep confidential all information and data obtained, developed, or supplied by the County, or at the County’s expense, and will not disclose said information to any other party, directly or indirectly, without the County’s prior written consent.

Section 13. Equal Opportunity and Nondiscrimination.

- A. Pursuant to Section 17-288, Orange County Code, the County shall not extend public funds or resources in a manner as would encourage, perpetuate or foster discrimination. As such, any and all person(s) doing business with the County shall recognize and comply with the County’s “Equal Opportunity and Nondiscrimination Policy,” which is intended to ensure equal opportunities to every person, regardless of race, religion, sex, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified. This policy is enforced by Section 17-314, Orange County Code, and the County’s relevant Administrative Regulations. Section 17-290, Orange County Code, memorializes the County’s commitment to its Equal Opportunity and Nondiscrimination Policy, by requiring the following provisions in all County contracts:
1. The Agency represents that the Agency has adopted and shall maintain a policy of nondiscrimination as defined by applicable County ordinance through the term of this Agreement.
 2. The Agency agrees that, on written request, the Agency shall permit reasonable access to business records or employment, employment advertisement, application

forms, and other pertinent data and records, by the county, for the purpose of investigating to ascertain compliance with the nondiscrimination provisions of this Agreement; provided, that the Agency shall not be required to produce for inspection records covering periods of time more than one year prior to the date of this Agreement.

3. The Agency agrees that, if any of the obligations of this Agreement are to be performed by subcontractor(s), the provisions of subsections 1 and 2 of this section shall be incorporated into and become a part of the subcontract.

Section 14. Scrutinized Companies.

- A. By executing this Agreement, the Agency certifies that it is eligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes.
- B. Specifically, by executing this Agreement, the Agency certifies that:
 1. The Agency is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, and that it is not engaged in a boycott of Israel; and
 2. The Agency is not: (a) On the "Scrutinized Companies with Activities in Sudan List" or the "Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List," created pursuant to Section 215.473, Florida Statutes; or (b) Engaged in business operations in Cuba or Syria.
- C. The County reserves the right to terminate this Agreement immediately should the Agency be found to:
 1. Have falsified its certification of eligibility to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes; or
 2. Have become ineligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statute subsequent to entering into this Agreement with the County.
- D. If this Agreement is terminated by the County as provided in subparagraph C(1) of this Section, the County reserves the right to pursue any and all available legal remedies against the Agency, including but not limited to the remedies as described in Section 287.135, Florida Statutes. If this Agreement is terminated by the County as provided in subparagraph C(2) of this Section, the Agency shall be paid only for the funding-applicable work completed as of the date of the County's termination.

Section 15. Audit Remedies for Improper Use of Funds.

- A. Pursuant to this Agreement, the County, the Orange County Comptroller, and their respective designees, shall have the right to audit the Agency's records. This includes the right to audit the funds disbursed under this Agreement, in order for the County to ensure the Agency's effective management of such funds and activities, as well as the Agency's compliance with this Agreement's terms, conditions, and obligations. The Comptroller shall have full access to the Agency records, documents, and information, whether on paper or electronic media, necessary to perform this audit.
- B. Additionally, the County, or its designee, shall have access to the books, records, subcontract(s), financial operations, and documents ("**Records**") of the Agency and the Records of its sub-contractors (if applicable) for the purpose of inspection or audit. Access to the Records shall be available to the County by appointment during normal business hours at the place of business of the Agency or the Agency's sub-contractor (if applicable).
- C. This right to audit shall include the Agency's sub-contractors used to procure goods or render services under this Agreement with the County, or in relation to the Agency's other activities. The Agency shall ensure that the County has these same rights with their sub-contractors(s) and suppliers.
- D. The County shall have all legal and equitable remedies available to it including, but not limited to: injunctive relief; the right to terminate contribution payments; and payment of restitution for any funds utilized by the Agency in a manner which is not in conformance with the terms of this Agreement.

Section 16. Program Evaluation.

- A. The Agency shall provide to the County, upon the County's request, any and all data needed for the purpose of program evaluation, monitoring, or audit. Said data shall include, but not be limited to, information about clients served, services provided, outcomes achieved, information on materials and services delivered, and any other data that may be required to adequately evaluate program cost and effectiveness. The Agency's failure to provide the data to the County shall be deemed a breach of this Agreement and may result in this Agreement's termination at the County's sole discretion.
- B. The Agency shall permit persons duly authorized by the County to inspect the Agency's records, papers, documents, facilities, and goods and services, and to interview clients or current or former Agency employees for matters related to this Agreement. The Agency shall make its business records custodian available to the County and provide an adequate and appropriate workspace for the County's representative to conduct evaluations, monitoring, or

audit.

1. Following a program evaluation, monitoring, or audit, the County will deliver a report of its findings to the Agency. The County may include in its report recommendations regarding the Agency's compliance with the terms of this Agreement.
 2. If the County denotes a deficiency in its report, the County will issue a written notice of corrective action to the Agency that will specify the deficiency and provide the Agency with a timeline in which to correct said deficiency. The Agency shall submit a corrective action plan to the County within the timeframe provided in the written notice of corrective action that adequately rectifies said deficiency.
 3. If the Agency fails to correct the deficiency described in the written notice of corrective action within the provided timeline, then the County may deem the Agency in breach of this Agreement, or terminate this Agreement, or both, at the County's sole discretion.
- C. The Agency shall cooperate with the County on all evaluations, monitors, or audits to ensure that the Agency and its subcontractors, if any, are in compliance with all applicable County guidelines and requirements for recipients of County general funds.

Section 17. Notices. Notices to either party provided for in this Agreement shall be sufficient if sent by certified or registered mail, return receipt requested, postage prepaid, addressed to the following addressees or to such other addressees as the parties may designate to each other in writing from time to time:

To the County:

Orange County Administrator
Orange County Administration Building
201 S. Rosalind Avenue, 5th Floor
Orlando, Florida 32801

AND

Orange County Procurement Division
Attention: Manager
400 East South Street, 2nd Floor
Orlando, Florida 32801

AND

Orange County Mental Health and Homelessness Division
Attention: Manager
2002 East Michigan Street
Orlando, Florida 32806

To the Comptroller: Orange County Comptroller
Director of Finance & Accounting
201 S. Rosalind Avenue, 4th Floor
Orlando, Florida 32801

To the Agency: Heart of Florida United Way, Inc.
Attention: Raymond Larsen, Senior Vice President
1940 Cannery Way
Orlando, Florida 32804

Section 18. General Provisions.

- A. **Conflict of Interest.** The Agency represents that, at the time of this Agreement's execution, it has no interest and shall acquire no interest, either direct or indirect, that would conflict in any manner with the performance or services required by this Agreement, as provided for in Section 112.311, Florida Statutes. The Agency shall notify the County in writing by certified mail within forty-eight (48) hours of discovery of any potential conflicts of interest and identify the nature of the conflict in detail. The County shall notify the Agency via certified mail of its opinion on the conflict within thirty (30) days of receiving the Agency's notice.
- B. **Contingent Fees.** The Agency warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Agency to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Agency, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.
- C. **Sovereign Immunity.** Nothing contained in this Agreement shall constitute, or be in any way construed to be, a waiver of either party's sovereign immunity or the protections and provisions of Section 768.28, Florida Statutes.
- D. **Successors and Assigns.** The County and the Agency each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Additionally, the parties deem the services to be rendered pursuant to this Agreement to be personal in nature. As such, neither party shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other, which consent shall be in the sole determination of the party with the right to consent.
- E. **Use of County Logo.** The Agency is prohibited from use of any and all County emblems, logos, or identifiers without written permission from the County, as per Section 2-3, Orange County Code.
- F. **Truth in Negotiation Certificate.** Signature of this Agreement by the Agency shall act as the

execution of the truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete and current as of the date of the Agreement and no higher than those charged the Agency's most favored customer for the same or substantially similar service.

- G. **Arrears.** The Agency shall not pledge the County's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien, or any form of indebtedness. The Agency represents that, at the time of this Agreement's execution, it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
- H. **Governing Law.** This Agreement, and any and all actions directly or indirectly associated with this Agreement, will be governed by and construed in accordance with the internal laws of the State of Florida, without reference to any conflicts of law provisions.
- I. **Venue.** Each party agrees to submit to the exclusive jurisdiction of, and waives any venue or other objection against, the Ninth Circuit in and for Orange County, Florida for any legal proceeding arising out of or relating to this Agreement. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the United States Middle District of Florida.
- J. **Jury Waiver.** Each party to this Agreement hereby irrevocably waives to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Agreement.
- K. **Attorney's Fees and Costs.** The indemnity provision of this Agreement excepted, the parties shall each bear their own costs, expert fees, attorneys' fees, and other fees incurred in connection with this Agreement and any litigation that arises either directly, or indirectly, from this Agreement.
- L. **Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant, or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.
- M. **Survivorship.** Those provisions which by their nature are intended to survive the expiration, cancellation, or termination of this Agreement, including, by way of example only, the indemnification and public records provisions, shall survive the expiration, cancellation, or termination of this Agreement.
- N. **Construction and No Representations.** The parties hereby agree that they have reviewed this

Agreement, have consulted with legal counsel of their choice, have participated in the drafting of this Agreement, and that this Agreement is not to be construed against any party as if it were the drafter of this Agreement. Additionally, each party represents that they have had the opportunity to consult with an attorney, and have carefully read and understand the scope and effect of the provisions of this Agreement.

- O. **Headings.** The headings or captions of articles, sections, or subsections used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.
- P. **Remedies.** No remedy in this Agreement conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy under this Agreement or now or after termination of this Agreement existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, powers, or remedies under this Agreement shall preclude any other or further exercise of any rights powers or remedies.
- Q. **Waiver.** No delay or failure on the part of any party to this Agreement to exercise any right or remedy accruing to such party upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment of any such right or remedy, or preclude such party from the exercise of any such right or remedy at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.
- R. **Written Modification.** No modification of this Agreement shall be binding upon any party to this Agreement unless reduced to writing and signed by a duly authorized representative of each party to this Agreement.
- S. **Authority of Signatory.** Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.
- T. **Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to, or shall confer, upon any person, other than the parties and their respective successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.
- U. **Compliance with Laws.** It shall be each party's responsibility to be aware of federal, state and local laws relevant to this Agreement. Each party shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party and shall obtain any permits or license necessary for its operations. Neither party shall take any action in violation of any applicable legal requirement that could result in liability being imposed on the other party.

- V. **Public Entities.** By executing this Agreement, the Agency hereby certifies that it is not on the "Convicted Vendor List" maintained by the Department of Management Services pursuant to Section 287.133(3)(d), Florida Statutes. The Agency understands that should this certification be falsified, that the County reserves the right to: (1) Terminate this Agreement; and (2) Pursue any of the County's available legal rights and remedies.
- W. **Tobacco-Free Campus.** All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in one or both of the following: (1) Civil penalties levied under Chapter 386.208, Florida Statutes, for the offending individual – when applicable; and (2) Termination of this Agreement between the Agency and the County.
- X. **Authority to Operate.** The Agency, by this Agreement, represents and warrants that it has and will continue to maintain all licenses, permits, and approvals that are required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses, permits, and approvals will be submitted to the County upon request.
- Y. **Entire Agreement.** This Agreement, and any documents incorporated in this Agreement, set forth and constitute the entire agreement and understanding of the parties with respect to the subject matter of this Agreement. This Agreement supersedes any and all prior contracts, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement has been fully executed on behalf of the parties hereto by their duly authorized representatives, as of the date first above written.

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Jerry L. Demings*

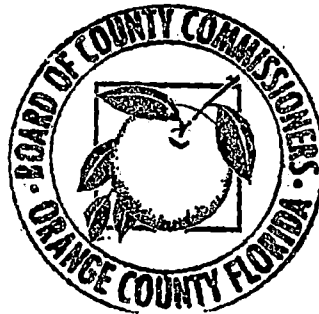
for Jerry L. Demings
Orange County Mayor

Date: JUL 07 2020

ATTEST: Phil Diamond, CPA, Orange County Comptroller
As Clerk of the Board of County Commissioners

BY: *Phil Diamond*
Deputy Clerk

Date: JUL 07 2020



[REMAINING SIGNATURE ON FOLLOWING PAGE]

**HEART OF FLORIDA
UNITED WAY, INC.**

[Handwritten Signature]
Signature

3.12.2020
Date

Jeffery (Jeff) Hayward
Printed Name

President and CEO
Official Title

STATE OF FLORIDA)

COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me on this 12th day of March 2020, by Jeffery Hayward, in his or her official capacity as the President & CEO of the Heart of Florida United Way, Inc.

[Handwritten Signature]
Signature Notary Public
Print, Type/Stamp Name of Notary

- Physically Present
- Personally Known
- Produced Identification
Type of Identification Produced: _____



ROXANNE L. JEDRASZCZAK
Commission # GG 293273
Expires February 16, 2023
Bonded Thru Budget Notary Service

EXHIBIT "A"
SCOPE OF SERVICE

In response to the deadly mass shooting at the Pulse nightclub, the OUAC was established on July 11, 2016. The role of the OUAC is to serve as a navigation point and to provide one-on-one support to assess the needs, provide information, and coordinate support for those affected by the mass shooting.

With the OUAC moving to its fourth year, Orange County is part of a stakeholders group (which includes the Agency, CFF, the City, and Osceola) that has determined that this would be an appropriate time to survey and convene focus groups with survivors and those affected by the tragedy to determine what services may be needed going forward and what would be the best way for those services to be provided. Consequently, the stakeholders group has proposed continuing current OUAC operations through September 30, 2020. Continuing operations through the September 30, 2020 will allow OUAC to continue its current staffing level and Services during the survey and focus groups and create a more seamless transition to the next iteration of services to those impacted by the Pulse tragedy. During this Agreement's Period of Performance, the Agency shall continue to manage, operate, and administer the OUAC and provide services in accordance with this Agreement, the License Agreement, and the Proposal ("**Services**").

The total budget for the continued operation of OUAC at current staffing (1 receptionist, 2 case managers, and 1 part-time Licensed Clinical Social Worker) for February 1, 2020 through September 30, 2020 is two hundred twenty-seven thousand five hundred fifty-five dollars (\$227,555.00). **Orange County shall pay the Agency \$29,500 in accordance with the terms of this Agreement and continue the lease, data and maintenance of the Property (valued at approximately \$50,000) in accordance with the Lease Agreement.** The Agency shall be responsible for securing the remaining operational costs and shall contribute approximately fifty-seven thousand six hundred eighty-five dollars (\$57,685.00) of its own funds to operate the OUAC during the Period of Performance. The Agency will secure the remaining operational costs from the other members of the stakeholders group in the following amounts:

\$57,685	Central Florida Foundation, Inc.;
\$57,685	City of Orlando; and
\$25,000	Osceola County, Florida.

In the event that the Services to be provided by the OUAC are cancelled or the Agency is unable to secure the costs necessary to operate the OUAC in accordance with this Agreement, the Agency will notify the County immediately. In such an event, the County reserves its right to seek the return of its Funds from the Agency in accordance with the terms of this Agreement.

EXHIBIT "B"
LEASED EMPLOYEE AFFIDAVIT

I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors or casual labor exposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the County in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the County with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any County jobsite.

I further agree to notify the County if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: TriNet

Workers' Compensation Carrier: Indemnity Insurance Company of North America

A.M. Best Rating of Carrier: A++

Inception Date of Leasing Arrangement: 9/1/2019

I further agree to notify the County in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the County that documents the change of carrier.

Name of Contractor: Heart of Florida United Way, Inc.

Signature of Owner/Officer:  _____

Title: President and CEO

Date: 3.12.2020

BCC Mtg. Date: July 7, 2020

BUSINESS ASSOCIATE AGREEMENT

between

ORANGE COUNTY, FLORIDA

and

HEART OF FLORIDA UNITED WAY, INC.

related to

PROVISION OF ADEQUATE ASSURANCES OF COMPLIANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (“HIPAA”) PRIVACY, BREACH, AND SECURITY RULES, THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC HEALTH ACT (“HITECH”) BREACH NOTIFICATION RULES, AND THE FLORIDA INFORMATION PROTECTION ACT OF 2014 (“FIPA”)

THIS ADDENDUM (“Addendum”) is by and between **ORANGE COUNTY, FLORIDA** (the “County”), a charter county and political subdivision of the State of Florida, located at 201 South Rosalind Avenue, Orlando, Florida 32801, on behalf of its Mental Health and Homelessness Division (the “County”), and **HEART OF FLORIDA UNITED WAY, INC.**, a not-for-profit corporation under the laws of the State of Florida, located at 1940 Cannery Way, Orlando, Florida 32804 (“Business Associate”). The County and Business Associate may be referred to individually as “party” or collectively as “parties.”

RECITALS

WHEREAS, the County is a “Hybrid Entity” under the HIPAA Privacy and Security rules, 45 CFR §164.105; and

WHEREAS, pursuant to 45 CFR §164.105(a)(2)(iii)(D), the County, as a Hybrid Entity, documented that the Mental Health and Homelessness Division is one of the County’s “Covered Healthcare Component(s)” and, as such, when the County is acting through one of its Covered Healthcare Component(s), it is treated as a though it is a “Covered Entity”; and

WHEREAS, the County, on behalf of its Covered Healthcare Component, and the Business Associate entered into Contract No. ~~Y20-xxx~~ (the “Agreement”) regarding the Business Associate’s provision of services to the County (the “Services”); and

WHEREAS, in providing the Services, the Business Associate shall be provided certain Protected Health Information (“PHI”) and/or Personally Identifiable Information (“PII”) by the County that is subject to protection under the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5,

Title XIII, 123 Stat. 226 (2009); and FIPA, §501.171, Florida Statutes; each where applicable and as amended; and

WHEREAS, the HIPAA Privacy and Security rules require that a Covered Entity – as well as a Hybrid Covered Entity when it is acting through one of its Covered Healthcare Components – receives adequate assurances that the Business Associate will comply with certain obligations with respect to the PHI received and/or generated in the course of providing Services to, or on behalf of, that Covered Entity or Hybrid Covered Entity; and

WHEREAS, the purpose of this Addendum is to have the Business Associate provide adequate assurances that the Services provided by the Business Associate pursuant to the Agreement shall be provided in compliance with the requirements of the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and FIPA, §501.171, Florida Statutes; each where applicable and as amended; and

NOW, THEREFORE, in consideration of the terms, conditions, covenants, agreements, and obligations herein stated, the parties agree as follows:

Section 1. Incorporation.

- A. **Recitals Incorporated.** The above recitals are true and correct and are hereby incorporated as a material part of this Addendum.
- B. The HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and FIPA, §501.171, Florida Statutes; each where applicable and as amended, are hereby incorporated into this Addendum.
- C. To the extent that this Addendum, or the Agreement, imposes more stringent requirements than those contained in the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and FIPA, §501.171, Florida Statutes; each where applicable and as amended, the most stringent requirements shall control.

Section 2. Definitions.

- A. Terms that are used herein, but not otherwise defined, shall have the same meaning as those terms in the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and FIPA, §501.171, Florida Statutes; each where applicable and as amended
 1. ***Breach*** shall have the meaning given to such term as found in 45 CFR §164.402, regarding the HIPAA Privacy and Security and HITECH Act Breach Notification rules, and §501.171, Florida Statutes, regarding FIPA.

2. **Designated Record Set** shall mean a group of records maintained by or for a covered entity that is: (a) the medical records and billing records about individuals maintained by or for a covered health care provider; (b) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (c) used, in whole or in part, by or for the covered entity to make decisions about individuals. For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a covered entity.
3. **Disclosure** shall mean the release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.
4. **Individual** shall mean the person who is the subject of PHI, and shall include a person who qualifies as a personal representative, in accordance with 45 CFR §164.502(g).
5. **Individually Identifiable Health Information** shall mean information that is a subset of health information, including demographic information collected from an individual, and: (a) is created or received by a health care provider, health plan, employer, or health care clearinghouse; (b) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (c) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
6. **Privacy Officer** shall mean the individual designated by the County pursuant to 45 CFR §164.530, who is responsible for the development and implementation of the County's policies and procedures as they relate to its – and its Covered Healthcare Component's – compliance with the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and the Florida Information Protection Act, §501.171, Florida Statutes; all where applicable and as amended.
7. **Personally Identifiable Information (“PII”)** shall mean the following:
 - a. An individual's social security number; and/or
 - b. An individual's initials, first name, or first initial and last name in combination with any one or more of the following data elements for that individual:

- i. A driver's license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;
 - ii. A financial account number or credit or debit card number in combination with any required security code, access code, or password that is necessary to permit access to an individual's financial account;
 - iii. Any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or
 - iv. An individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
 - v. Any other identifier, as referenced in the Department of Health & Human Services "Safe Harbor Standards."
 - vi. The term "Personally Identifiable Information" does not include information about an individual that has been made publicly available by a federal, state, or local governmental entity. The term also does not include information that is encrypted, secured, or modified by any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable.
- c. A user name or e-mail address, in combination with a password or security question and answer that would permit access to an online account.
 - d. The PII provided pursuant to the Agreement shall be limited to what is necessary for the Business Associate to meet its obligations thereunder.
8. **Protected Health Information ("PHI")** shall mean an individual's identifiable health information, as defined under 42 U.S.C. §1320d, as amended, with the exception of education records covered by the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, as amended, and the health care records of students at post-secondary educational institutions or of students eighteen (18) years of age or older, used exclusively for their health care treatment which have not been disclosed to anyone other than a health care provider at the student's request. The PHI provided pursuant to the Agreement shall be limited to what is necessary for the Business Associate to meet its obligations thereunder.

9. **Required by Law** shall have the same meaning as the term “required by law” in 45 CFR §164.103.
10. **Secretary of Health and Human Services** shall mean the Secretary of the Health and Human Services (“HHS”) or any other officer or employee of HHS to whom the authority involved has been delegated.
11. **Security Incident** shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PII contained in any form or interference with system operations in an information system that contains PHI or PII.
12. **Use** shall mean the sharing, employment, application, utilization, examination, or analysis of PII or PHI within an entity that maintains such information.

Section 3. Scope of this Addendum.

- A. **Independent Status of Parties.** The parties agree that they are, and shall be, independently responsible for complying, and shall independently comply, with the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and the Florida Information Protection Act, §501.171, Florida Statutes; all where applicable and as amended.
- B. The parties further agree that they are, and shall be, responsible for their own actions and conduct and shall not assume responsibility for the actions and conduct of one another. Additionally, the parties agree that they shall maintain all corporate formalities establishing separate and individual control by each organization's board of directors, as applicable.
- C. The Business Associate acknowledges that the confidentiality requirements set forth herein shall apply to all of its employees, agents, and/or representatives. The Business Associate assumes responsibility and liability for any damages or claims, including (but not limited to):
 1. State and federal administrative proceedings and sanctions brought against the County; and/or
 2. Costs and attorneys' fees resulting from the breach by the Business Associate of the confidentiality requirements of this Addendum or the Agreement.

Section 4. Privacy of PHI and Confidentiality of PII.

- A. **Permitted Uses and Disclosures of PHI and PII by Business Associate.** The Business Associate may use, or disclose, PHI and PII received from the County to its officers and employees. The Business Associate may disclose PHI and PII to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit PHI and PII on its behalf if the Business Associate obtains satisfactory assurances, in accordance with 45 CFR § 164.504(e)(1)(i) and § 501.171(2), Florida Statutes, that the subcontractor will appropriately safeguard the information. All other uses or disclosures not otherwise authorized by this Addendum or otherwise governed by law are prohibited.
- B. **Responsibilities of the Business Associate.** Regarding the use or disclosure of PHI and PII, the Business Associate agrees to:
1. Only use or disclose the PHI and PII as allowed under this Addendum or otherwise by applicable law.
 2. Only use or disclosure PHI and PII in a manner that would not violate the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, or FIPA, if done so by a Covered Entity.
 3. Establish and implement appropriate procedures, physical, and technical safeguards to prevent improper access, uses, transmissions, or disclosures of PHI and PII for mitigating, to the greatest extents possible under the circumstances, any deleterious effects from any improper access, use, or disclosure of PHI and PII that the Business Associate reports to the County. Safeguards shall include, but are not limited to: (a) the implementation and use of electronic security measures to safeguard electronic data; (b) requiring employees to agree to access, use, or disclose PHI and PII only as permitted or required by this Addendum; and (c) taking related disciplinary action for inappropriate access, use or disclosure as necessary.
 4. Ensure that the Business Associate's subcontractors or agents to whom the Business Associate provides PHI or PII that is created, received, maintained, or transmitted on behalf County agree to the same restrictions and conditions that apply to the Business Associate with respect to PHI and PII, and ensure that its subcontractors or agents agree to establish and implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of all PHI and PII that it creates receives, maintains, or transmits on behalf of the County.
 5. Make the Business Associate's records, books, accounts, agreements, policies, and procedures available to the Secretary of HHS for determining the County's compliance with the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, and also, with the State of Florida's Department of Legal Affairs to determine the County's compliance with FIPA.

6. Limit use by, or disclosure to, its subcontractors, agents, and other third parties, to the minimum PHI and PII necessary to perform or fulfill a specific function required or permitted hereunder.
7. Provide information to the County to permit the County to respond to a request by an individual for an accounting of disclosures within five (5) days of receiving a written request from the County, if the Business Associate maintains a Designated Records Set on behalf of the County.
8. Provide access to the PHI and PII maintained by the Business Associate to the County or individual, if the Business Associate maintains a Designated Records Set on behalf of the County, at the request of, and in the time and manner designated by, the County.
9. Make any amendment(s) to the PHI and PII when directed by the County, if the Business Associate maintains a Designated Record Set on behalf of the County, at the request of, and in the time and manner designated by, the County.
10. Establish and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI and PII the Business Associate creates, receives, maintains, or transmits on behalf of the County.
11. Report to the County any Security Incident involving PHI and PII that the Business Associate discovers in the manner detailed in Section 7 below.

C. **Compliance with the County's Policies.** The Business Associate hereby agrees to abide by the County's policies and practices for its Covered Healthcare Component that relate to the confidentiality, privacy, and security of PHI and PII.

D. **Use of PHI and PII for Management and Administration or Legal Responsibilities of the Business Associate.** The Business Associate may use PHI and PII received by the County pursuant to the Agreement for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate. However, the Business Associate will only be allowed to use PHI and PII for the aforementioned uses if:

1. the disclosure is required by law; or
2. the Business Associate obtains reasonable assurances from the person to whom the PHI and PII is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notified the Business Associate of any instances in which the person is aware of a confidentiality breach of PHI or PII.

- E. **Data Aggregation Services.** With respect to PHI and PII created or received by the Business Associate in its capacity as the Business Associate of the County, the Business Associate may combine such PHI and PII it has received from the County with the PHI and PII received by the Business Associate in its capacity as a Business Associate of another Covered Entity, or Hybrid Covered Entity, to permit data analysis that relates to the health care operation of the respective Covered Entity, or Hybrid Covered Entity, if data analyses is part of the Services that Business Associate is to provide to the County pursuant to the Agreement.
- F. **Compliance.** The Business Associate agrees to keep all PHI and PII confidential and secure in compliance with the provisions of this Addendum and according to current state and federal laws.

Section 5. Confidentiality.

- A. In the course of performing under this Addendum, each party may receive, be exposed to, or acquire the confidential information including, but not limited to, all information, data, reports, records, summaries, tables, and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identifiable as confidential ("Confidential Information") of the other party.
- B. For purposes of this Addendum, Confidential Information shall **not** include PHI, the security and privacy of which is the subject of this Addendum. The parties, including their employees, agents, or representatives shall:
1. Not disclose to any third party the Confidential Information of the other party except as otherwise permitted by this Addendum, or as mandated by the State of Florida's Public Records Laws;
 2. Only permit use of such Confidential Information by employees, agents, and representatives having a need to know in connection with performance under the Agreement; and
 3. Advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential.
- C. This provision shall not apply to Confidential Information:
1. After it becomes publicly available through **no fault** of either party;
 2. Which is later publically released by either party in writing;
 3. Which is lawfully obtained from third parties without restrictions; and/or
 4. Which can be shown to be previously known or developed by either party independently of the other party.

Section 6. Security.

- A. **Security of Electronic Protected Health Information and Personal Information.** The Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI (as defined in 45 C.F.R. §160.103) ("Electronic PHI") and PII (as defined by §501.171, Florida Statutes) that the Business Associate creates, receives, maintains, or transmits on behalf of the County consistent with the HIPAA Privacy and Security rules, HITECH Act Breach Notification rules, and FIPA.
- B. **Reporting Security Incidents.** The Business Associate will report to the County any Security Incident of which the Business Associate becomes aware that is:
1. A successful unauthorized access, use or disclosure of Electronic PHI or PII;
 2. A modification or destruction of Electronic PHI or PII; or
 3. Interference with system operations in an information system containing Electronic PHI or PII.

Section 7. Reporting Requirements.

- A. **Reporting.** The Business Associate shall make a good faith effort to identify any use or disclosure of protected information not provided for in this Addendum.
- B. **Reporting to the County.**
1. The Business Associate will report to the County within:
 - a. Two (2) days of any suspected—or confirmed—access, use, or disclosure of PHI or PII, regardless of form, not permitted or required by this Addendum of which the Business Associate becomes aware; and
 - b. Twenty-four (24) hours of discovery, any Security Incident of which the Business Associate is aware.
 2. Such report shall include the identification of each individual whose unsecured PHI and PII has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
 3. Reports of Security Incidents shall include a detailed description of each Security Incident, at a minimum, to include: (a) the date of the Security Incident; (b) the nature of the Security Incident; (c) the information involved, whether the information was accessed, disclosed, used, modified, destroyed, etc.; (d) the

identities of the individual(s) and their relationship to the Business Associate; (e) a description of the Business Associate's response to each Security Incident; (f) and the name and title of the individual the County should contact for additional information.

4. The Business Associate will conduct such further investigation as is reasonably required by the County and promptly advise the County of additional information pertinent to the Security Incident.
5. The Business Associate will cooperate with the County in conducting any required risk analysis related to such Security Incident(s).
6. The Business Associate will cooperate with the County in complying with any applicable notification requirements pursuant to the HITECH Act Breach Notification rules and/or pursuant to Florida law (including, but not limited to, §501.171, Florida Statutes), and in taking steps determined by the County to be necessary to mitigate any potential harm caused by a Security Incident. The Business Associate will pay and/or reimburse the County for any reasonable expenses the County incurs in notifying individuals of, and /or mitigating potential harm caused by, a Security Incident caused by the Business Associate and/or its subcontractors or agents.

C. **Reporting to Individuals.** In the case of a breach of PHI or PII discovered by the Business Associate, the Business Associate shall first notify the County of the pertinent details of the breach and, upon prior approval of the County's Privacy Officer, shall notify each individual whose unsecured PHI or PII has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed as a result of such breach. Such notification shall be in writing by first-class mail to the individual (or the next of kin if the individual is deceased) at the last known address of the individual or next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. Where there is insufficient or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes written (or, if specifically requested, electronic) notification to the individual, a substitute form of notice shall be provided, including – in the case that there are ten (10) or more individuals for which there is insufficient or out-of-date contact information – a conspicuous posting on the web site of the Business Associate involved or notice in major print of broadcast media, including major media in the geographic areas where the individuals affected by the breach are likely to reside. In any case deemed by the Business Associate to require urgency because of possible imminent misuse of unsecured PHI or PII, the Business Associate may also provide information to individuals by telephone or other means, as appropriate.

D. **Reporting to Media.** In the case of a breach of PHI discovered by the Business Associate where the unsecured PHI of more than five hundred (500) persons or unsecured PII of more than five hundred (500) persons is reasonably believed to have been, accessed, acquired, or

disclosed, after prior approval by the County, the Business Associate shall provide notice to prominent media outlets serving the state or relevant portion of the state involved.

- E. **Reporting to HHS and the State of Florida Department of Legal Affairs.** The Business Associate shall cooperate with the County to provide notice of unsecured PHI and/or PII that has been acquired or disclosed in a breach to the Secretary of HHS and to the State of Florida's Department of Legal Affairs. If the breach was with respect to five hundred (500) or more individuals, such notice shall be provided immediately. If the breach was with respect to less than five hundred (500) individuals, the Business Associate shall maintain a log of such breach occurring and shall annually submit such log to the County so that it may satisfy its obligation to notify the Secretary of HHS documenting such breaches occurring in the year involved.
- F. **Content of Notices.** All notices and reports required under this Addendum shall include the content set forth 45 C.F.R §164.404, the HITECH Act Breach Notification rules, and FIPA, each as amended. Notification to individuals sent by the Business Associate pursuant to this Agreement shall clearly state that the breach was on the Business Associate's part.
1. Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:
 - a. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
 - b. A description of the types of unsecured PHI and PII that were involved in the breach (such as full name, social security number, date of birth, home address, account number, or disability code);
 - c. The steps individuals should take to protect themselves from potential harm resulting from the breach;
 - d. A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches; and
 - e. Contact procedures for individuals to ask questions or learn additional information, which shall include a toll free telephone number, an e-mail address, web site, or postal address.
- G. **Notice to Credit Reporting Agencies.** In the case of a breach of PII discovered by the Business Associate where the unsecured PII of more than one thousand (1000) individuals has reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the County, the Business Associate shall notify all consumer reporting agencies nationwide, that complete and maintain files in accordance with the provisions of §501.171(5), Florida Statutes.

- H. **Financial Responsibility.** The Business Associate shall be responsible for all costs related to the notice required herein.
- I. **Mitigation.** The Business Associate shall mitigate, to the extent practicable, any harmful effects that are known to the Business Associate of use or disclosure of PHI or PII in violation of this Addendum, the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, and FIPA.
- J. A violation of any paragraph and/or subsection of this Section shall be a material violation of this Addendum.

Section 8. Termination.

- A. **Immediate Termination.** The County is authorized to immediately terminate the Agreement if it determines – based in its sole discretion – that the Business Associate has violated a material term of this Addendum. The County shall hand deliver or send certified notice of such termination to the Business Associate and shall only be liable to the Business Associate for any work performed prior to the date of the Business Associate's receipt termination.
- B. **Opportunity to Cure.** At its sole discretion, the County may:
1. Provide the Business Associate an opportunity to cure the breach within a time period deemed reasonable by the County; and
 2. Terminate the Agreement should the Business Associate fail to cure the breach to the County's satisfaction within the time period provided.
- C. **Effects of Termination.** Termination of the Agreement shall not affect any claim or rights that may arise based on the acts or omissions of the parties prior to the effective date of termination. It will also not in any way impact the survival of any term by which its nature is intended to survive the expiration, cancellation, or termination of the Agreement and/or this Addendum.
- D. **Duties of Business Associate Upon Termination of the Agreement.**
1. When the Agreement is terminated, the PHI and PII that the Business Associate received from, created, or received on behalf of the County shall, at the Business Associate's sole expense, be returned to the County with any copies and/or duplicates thereof destroyed. This mandate includes all PHI and PII in the possession of the Business Associate's subcontractors and/or agents.
 2. If the Business Associate determines that returning and/or destroying copies and duplicates of the relevant PHI and PII is not feasible, the Business Associate must maintain the privacy protections under this Addendum and according to applicable law for as long as the Business Associate retains the PHI and PII. Additionally, the Business Associate may only use or disclose the PHI and PII for specific uses

or disclosures that make it necessary for the Business Associate to retain the PHI and PII.

3. If the Business Associate determines that it is not feasible for it to return PHI or PII in the possession of one of its subcontractors or agents, the Business Associate must provide a written explanation to the County of such reasons and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions contained in this Addendum to the subcontractor's or agent's use or disclosure of any PHI and PII retained after the termination of the Agreement, and to limit any further uses or disclosures for the purposes that make the return and destruction of all copies and duplicates of the PHI or PII not feasible.

Section 9. General Terms.

- A. **Agreement Subject to All Applicable Laws.** The parties recognize and agree that the Agreement, and any and all activities performed thereunder, is governed by federal, state, and local laws, including the regulations, rules, and policies of the U.S. Department of Health and Human Services including, but not limited to, HIPAA Privacy and Security rules, FIPA, and their accompanying regulations. The parties further recognize and agree that the Agreement is subject to new legislation as well as amendments to government regulations, rules, and police, and agree to amend this Addendum accordingly.
- B. **No Third Party Beneficiaries.** Nothing expressed or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties any rights, remedies, obligations, or liabilities whatsoever.
- C. **Survival.** The rights and obligations of the parties in Sections 4, 5, 6, 7 in their entirety, as well as subsections 8D., 9E., 9G., and 9H., shall survive termination of the Agreement indefinitely.
- D. **Written Modification.** No modification of this Agreement shall be binding upon any party to this Agreement unless reduced to writing and signed by a duly authorized representative of each party to this Agreement.
- E. **Enforcement Costs and Attorneys' Fees.** If legal action or other proceedings, including arbitration, is brought for the enforcement of this Addendum, or because of an alleged dispute, breach, default, or misrepresentation in connection with any provision of this Addendum, each party will hereby be responsible for its own costs and attorneys' fees. This does not negate any of the Business Associate's responsibilities for costs and/or attorneys' fees that are otherwise specifically provided for herein.
- F. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the County to comply with the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, and FIPA.

- G. **Indemnification.** To the fullest extent permitted by law, the Business Associate shall defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including attorneys' fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or part by any act or omission of the Business Associate, anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the County. In the event the Business Associate is a state department or division, or a political subdivision of the State of Florida, indemnification shall follow the provisions of Section 768.28, Florida Statutes.
- H. **Signatory Authority.** Each signatory to this Addendum represents and warrants that he or she possesses all necessary capacity and authority to act for, sign, and bind the respective entity or person on whose behalf he or she is signing.
- I. **Notice.** All notices and other communications under this Addendum shall be in writing and shall be deemed received when delivered personally or when deposited in the U.S. mail, postage prepaid, sent registered, or certified mail, return receipt requested, or sent via nationally recognized and receipted overnight courier service, to the parties at their respective principal office or record as set forth below or as designed in writing from time-to-time. No notice of a change of address shall be effective until received by the other party(ies).

To the County:

Orange County, Florida
 Mental Health and Homelessness Division
 Attention: Wraparound Orange Project Director
 2002 East Michigan Street
 Orlando, Florida 32806

AND

Orange County, Florida
 Attention: HIPAA Privacy Officer
 2002-A East Michigan Street
 Orlando, FL 32806
 (407) 836-9214

AND

Orange County Administrator
 Administration Building, 5th Floor
 201 S Rosalind Avenue
 Orlando, FL 32801

To the Business Associate:

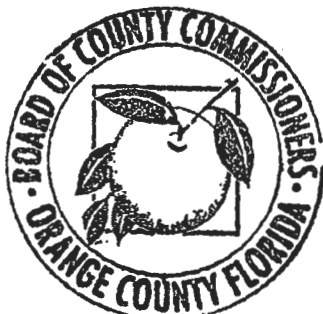
Heart of Florida United Way, Inc.
 Attention: Raymond Larsen, Senior Vice President

1940 Cannery Way
Orlando, Florida 32804

- J. **Severability.** If any provision of this Addendum, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Addendum, or the application of such affected provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Addendum shall be valid and shall be enforced to the fullest extent permitted by law. It is further the intention of the parties that if any provision of this Addendum were capable of two constructions – one that rendered the provision void and one that renders the provision valid – then the provision shall have the meaning that renders it valid.
- K. **Successors and Assigns.** The Business Associate shall not assign either its obligations or benefits under this Addendum without the expressed written consent of the County, which shall be at the sole discretion of the County. Given the nature of this Addendum, neither subcontracting nor assignment by the Business Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.
- L. **Governing Law.** This Addendum shall be governed by and construed in accordance with the laws of the State of Florida to the extent not preempted by the HIPPA Privacy and Security rules or other applicable federal law.
- M. **Venue.** For any legal proceeding arising out of or relating to this Addendum, each party hereby submits to the exclusive jurisdiction of, and waives any venue or other objection against, the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the U.S. Middle District of Florida.
- N. **Jury Waiver.** Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Addendum.
- O. **Waiver and Breach.** No failure by a party to insist upon the strict performance of any covenant, agreement, term, or condition of this Addendum shall constitute a waiver of any such breach or such covenant, agreement, term, or condition. Any party may waive compliance by the other party with any of the provisions of this Addendum if done so in writing. No waiver of any provision shall be construed as a waiver of any other provision or any subsequent waiver of the same provision.
- P. **Entire Agreement.** The Agreement, this Addendum and/or any additional addenda or amendments to the Agreement, any documents incorporated herein by reference, and/or attachments hereto, shall construe the entire understanding between the parties as to the rights, obligations, duties, and services to be performed hereunder.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the parties, attesting that they are duly authorized to enter into this Addendum, have executed this Addendum on the dates indicated below.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

Date: JUL 07 2020

ATTEST: Phil Diamond, CPA, Orange County Comptroller
As Clerk of the Board of County Commissioners

BY: *Katie Smith*
Deputy Clerk

Date: JUL 07 2020

[REMAINING SIGNATURE ON FOLLOWING PAGE]

**HEART OF FLORIDA
UNITED WAY, INC.**

[Handwritten Signature]
Signature

3.12.2020
Date

Jeffery (Jeff) Hayward
Printed Name

President and CEO
Official Title

STATE OF FLORIDA)

COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me on this 12th day of MARCH 2020,
by Jeffery Hayward, in his or her official capacity as the President
and CEO of the Heart of Florida United Way, Inc.

[Handwritten Signature]
Signature Notary Public
Print, Type/Stamp Name of Notary

- Physically Present
 - Personally Known
 - Produced Identification
- Type of Identification Produced: _____

