

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
VOORHIS ASSOCIATES, INC.**

THIS AGREEMENT, entered into this ____ day of _____, 2006, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and VOORHIS ASSOCIATES, INC, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of developing policies and procedures that meet the requirements of the California Minimum Standards for Juvenile Facilities-Title 15 and Title 24, etc., to ensure the safe and efficient operation of the new Juvenile Hall; and,

WHEREAS, the Contractor will develop an appropriate and job relevant curriculum and train approximately 120 staff on the newly developed policies and procedures, train on Post orders, conduct simulation and dry run training to enable Juvenile Hall staff to safely and efficiently access and operate the Juvenile Hall; and

WHEREAS, Contractor will assist in developing a comprehensive move-in strategy and time table for staff and youth relocation and provide on site assistance during the move in phase.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

Exhibit A—Services

Exhibit B—Payments and rates

Attachment H—HIPAA Business Associate requirements

Attachment I—§ 504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit "B," Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A."

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this Agreement exceed THREE HUNDRED TWENTY SIX THOUSAND NINE HUNDRED FORTY THREE DOLLARS \$326,943.

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from September 1, 2005 through December 31, 2006.

This Agreement may be terminated by Contractor, the Chief Probation Officer or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. County retains ownership of materials that are developed in connection with this agreement and are specific to the San Mateo County Probation facility. Contractor retains ownership of all materials that Contractor generates in connection with this agreement that are of a more general nature. However, both parties have an unlimited right to use all materials generated or used in connection with this agreement. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the county learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such issuance and to obtain such approval. The Contractor shall furnish the Department/Division with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the Department/Division of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and will comply with such provisions before commencing the performance of the work of this Agreement.
- (2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

(a) Comprehensive General Liability	\$1,000,000
(b) Motor Vehicle Liability Insurance	\$1,000,000
(c) Professional Liability	\$1,000,000

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Federal Regulations promulgated thereunder, as amended, and will comply with the Business Associate requirements set forth in Attachment "H," and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *Section 504 applies only to Contractors who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
 - i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;
 - iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.
- G. *Compliance with Contractor Employee Jury Service Ordinance.* Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees regular pay the fees received for jury service.

12. Retention of Records, Right to Monitor and Audit

(a) CONTRACTOR shall maintain all required records for five (5) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

(c) CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

13. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

14. Controlling Law

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

15. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United State mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

In the case of County, to:

Probation Department
County of San Mateo
21 Tower Road
San Mateo, CA 94402
Telephone: (650) 312-8872
Fax: (650) 312-5597
Attention: Christy Morrill, Administrative Services Manager

In the case of Contractor, to:

Voorhis Associates, Inc.
201 East Simpson Street
Lafayette, CO 80026
Telephone: (303) 665-8056
Fax: (303) 665-8059
Attention: John T. Milosovich

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

Voorhis Associates, Inc.
201 East Simpson
Lafayette, CO 80026
(a Colorado corporation)

Contractor's Signature

Date: _____

Exhibit “A”

In consideration of the payments set forth in Exhibit “B,” Contractor shall provide the following services:

Building upon Voorhis Associates Inc.’s previous positive working relationships with San Mateo County staff regarding the design and construction of the new San Mateo County Youth Services Center, we are committed to providing the essential transition services in the same participative, supportive manner that other services relative to this project were provided. The transition process will promote compliance with the Corrections Standards Authority (CSA) requirements, a professional juvenile corrections operation, seek to minimize potential litigation, and will create and update all pertinent operational documents responsive to the new Juvenile Hall titles/standards.

All of the tasks described herein are approached from a staff capacity building effort wherein transition staff play the key role in conceiving and developing the functional systems and processes, including all operating policies and procedures, through which the new facility will be safely and efficiently run. By proceeding in this manner, the Juvenile Hall will be successfully occupied while the overall management, operation, and staff capacity of the Juvenile Hall will be significantly enhanced. This participative process will enhance staff’s ownership in the operation of the Juvenile Hall, allow the staff to maintain documents in the future, facilitate the training of their own personnel, and better enable them to face the constantly changing pressures of their work environment. The end product of transition will be a successful move and the safe and efficient subsequent operation of the Juvenile Hall.

There are three components associated with the safe and efficient transition to the new Youth Services Center facility to be provided by the Contractor:

I. Policy and Procedure Development and Documentation - \$211,803

All of the documents prepared by Voorhis Associates, Inc. are for Juvenile Hall and Probation Department Staff review and approval.

The 200+ policy and procedures described in this section will be organized into a five chapters, (1.0 Administration and Management, 2.0 Physical Plant, 3.0 Institutional Operations, 4.0 Youth Services, and 5.0 Youth Programs), and 30 sections in order to allow staff easy access and use of the Policy and Procedure Manual.

The Policy and Procedure Manual will be located at Housing Workstations, Control, Admissions and/or will be available as a soft copy accessible via a computer terminal at each work site to promote its use.

The Policy and Procedure Manual will be used to clearly define the Juvenile Hall operation, transfer responsibility and authority to staff at the lowest level, serve as the basis of staff training both during transition and in the subsequent hiring of staff, may be used in the promotion process, and may minimize litigation.

Deliverables associated with this component which will be provided to the San Mateo County Probation Department include:

1. A comprehensive Policy and Procedure Manual, developed by Juvenile Hall Transition staff with the assistance of the Contractor, consistent with the Program Statement and Juvenile Hall design, and responsive to and meeting the requirements of the California Minimum Standards for Juvenile Facilities - Title 15, California Minimum Standards for Local Juvenile Facilities - Title 24, American Correctional Association Standards for Juvenile Detention Facilities, 3rd Edition, and the Institute for Medical Quality Juvenile Facilities Accreditation Standards – 2001. This will enable the Chief Probation Officer to successfully pursue independent national accreditation for the Juvenile Hall.
2. Contractor will provide sample policies and procedures to the Transition Team writers responsive to Juvenile Hall operations, in order to facilitate the policy and procedure development and writing process. Contractor will provide timely review and comment on policy and procedures developed by the Juvenile Hall Staff.

Contractor will conduct onsite work sessions with writers to clarify format, final product expectations, and compliance with various Standards.

3. Contractor will conduct Policy Retreats with the Juvenile Hall Director, Institution Services Managers and the Transition Team to define operations responsive to the Program Statement and design in order to develop consistent policy and procedures to enable the safe and efficient operation of the Juvenile Hall.
4. Policy and Procedure templates consistent with the new format, selected titles/standards, and revised Policy and Procedure Table of Contents in order to provide a consistent starting point for the Transition Team writers as they develop policy and procedures.
5. Document Guidelines that provide direction to the Transition Team on effective and consistent development of policy and procedures, forms, post orders, and the Youth Orientation Handbook.
6. A Policy and Procedure Table of Contents to titles/standards cross reference. Titles/standards cross reference reports indicate which policy and procedure addresses which titles/standards in order to facilitate Corrections Standards Authority inspections and independent accreditation reviews.
7. A Terminology List and Definitions List responsive to the new facility, and titles/standards in order to promote a consistent operation and to facilitate staff's ability to learn the new facility.
8. Forms necessary to document titles/standards of compliance as defined in the policy and procedures.
9. A Forms Manual that provides a description on the purpose of the form and how to complete each form that was developed consistent with policy and procedures in order to assist Juvenile Hall Staff in the day-to-day operation of the Juvenile Hall.
10. Fully executable Post Orders that summarize, in chronological order, the duties of staff at each work assignment. Post orders differ from policy and procedures in that a post order informs a single post of all the tasks for which the staff is responsible.
11. A Youth Orientation Handbook responsive to the Policy and Procedure Manual and related titles/standards in order to promote positive youth behavior.

II. Curriculum Development and Staff Training - \$40,214

Deliverables associated with this component which will be provided to the San Mateo County Probation Department include:

1. Contractor will develop a Facility Orientation Lesson Plan and instruct and prepare Juvenile Hall Staff in its use in order for staff to learn and "own" the new facility, technology, and terminology.
2. Contractor, working with the Transition Team and Juvenile Hall Staff, will develop a training program for each training component:
 - a) Policy and Procedure Training (two weeks)
 - b) Post Training (one week)
 - c) Simulation Training/Dry Run Training (one week)

In order to comprehensively train the 120+ Juvenile Hall Staff there will be four, four-week cycles of training to include approximately 160 hours of training for all sworn staff, and 8 hours of training for all non-sworn staff.

Contractor will provide onsite assistance to Juvenile Hall transition staff in the preparation and delivery of the User Training (i.e., Police, Fire, Ambulance, Deputy Probation Officers, Families, etc.) to facilitate their access and use of the Juvenile Hall, in order to provide for a smooth and safe transition to the new facility.

Additionally Contractor will assist Juvenile Hall Staff in the preparation and delivery of a Youth Orientation Program using the Youth Orientation Handbook in order to clarify expectations of positive youth behavior.

3. Contractor will provide onsite Transition Training for Trainers seminars for Juvenile Hall Staff in order that these staff will be able to deliver each of the training components described above. As a direct result of the transition process the Juvenile Hall will have an expanded core group of trainers reducing the dependency on outside training resources, and will provide unique and personalized training for San Mateo County in the years to come.
4. Contractor will prepare lesson plans for Policy and Procedure Training to be utilized in transition training and orientation training for new staff.
5. Contractor will develop Post Order Training in order to prepare Juvenile Hall Staff to operate each new post in the Juvenile Hall.

Contractor will provide management and organization for transition training in such a way that products may be utilized by the Juvenile Hall in subsequent training mandated by titles/standards. Products may include Lesson Plan Tracking Log, detailed schedules, Trainer Guidelines, Trainee Guidelines, and Training Coordinator Guidelines.

III. Transition and Move-In Assistance - \$74,926

Services associated with this component which will be provided to the San Mateo County Probation Department include:

1. Contractor will review and troubleshoot selected shop drawings or construction issues as requested by Probation Department staff and provide written feedback relative to any operational issues.
2. Contractor will assist in developing a comprehensive move in strategy and timetable for staff and youth relocation. The strategy employed will take into account the pros and cons of phased occupancy and the timetable for the Girls Camp startup. The transition timetable will be reviewed and updated as necessary to be consistent with the construction schedule and overall transition process.
3. Contractor will provide onsite assistance during the move in phase, including the week prior to the initial move in date, and the week following the conclusion of the move. This includes organizing and conducting initial pre and post shift briefings, organizing issues by categories, and providing support to the Juvenile Hall as needed.
4. Contractor will assist the Juvenile Hall Staff and Transition Team with overall Transition Management during the transition planning and move in phases. Assistance will focus on issues that are not covered in other tasks, and will relate to overall transition management, unanticipated problems and issues, and problem anticipation and resolution.

Exhibit "B"

In consideration of the services provided by Contractor in Exhibit "A", County shall pay Contractor based on the following fee schedule:

Amount and Method of Payment

1. All invoices must be original, be dated, and have an invoice number and the San Mateo County Agreement number on them before submitting for payment. Invoices are to be sent to the San Mateo County Probation Department, 21 Tower Road, San Mateo, CA 94402, Attention: Christy Morrill, Administrative Services Manager.
2. Contractor shall bill on or before 30 days after month end for prior month's services. Invoices will describe work performed by task and level of effort by task.
3. Contractor will track time spent by all project staffmembers by task, and receive payment upon submission of invoice stating total number of hours worked by Contractor staffmembers on specific task components each month. The effective hourly rates for Contractor staffmembers are as follows: Principal - \$135.00 per hour; Associate - \$75.00 per hour; Support Staff - \$55.00 per hour.
4. The County shall not be obligated to pay Contractor for services covered by any invoice received more than 90 days after this Agreement terminates.
5. In any event, the total payment for services under the terms of this contract shall not exceed \$326,943 and the County shall have the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable.
6. In the event Contractor claims or receives payment from County for a service, reimbursement for which is later disallowed by County or the State of California, or the United States Government, than Contractor shall promptly refund the disallowed amount to County upon request, or at its option, County may offset the amount disallowed from any payment due or become due to Contractor under this Agreement or any other agreement.
7. Payments for services provided are contingent upon the availability of County, State or Federal funds. In the event the State or the Federal government does not appropriate the necessary funds as part of either or both of their budgets, the County shall not be liable for any payment whatsoever; including but not limited to, payments that are based on County funds. The County may terminate this Agreement for unavailability of Federal, State or County funds.
8. Entry into this Agreement by County for the stated term of the agreement does not obligate the County to enter into future agreements with Contractor.

Attachment H
Health Insurance Portability and Accountability Act (HIPAA)
Business Associate Requirements

Definitions

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations section 160.103 164.304 and 164.501. (All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.)

- a. *Designated Record Set.* “Designated Record Set” shall have the same meaning as the term “designated record set” in Section 164.501.
- b. *Electronic Protected Health Information.* “Electronic Protected Health Information” (“EPHI”) means individually identifiable health information that is transmitted or maintained in electronic media, limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- c. *Individual.* “Individual” shall have the same meaning as the term “individual” in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- d. *Privacy Rule.* “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E.
- e. *Protected Health Information.* “Protected Health Information” shall have the same meaning as the term “protected health information” in Section 164.501 and is limited to the information created or received by Contractor from or on behalf of County.
- f. *Required By Law.* “Required by law” shall have the same meaning as the term “required by law” in Section 164.501.
- g. *Secretary.* “Secretary” shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- h. *Security Incident.* “Security Incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system, but does not include minor incidents that occur on a daily basis, such as scans, “pings”, or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate
- i. *Security Rule.* “Security Rule” shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

Obligations and Activities of Contractor

- a. Contractor agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.
- b. Contractor agrees to use appropriate safeguards to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement.
- d. Contractor agrees to report to County any use or disclosure of the Protected Health Information not provided for by this Agreement.
- e. Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Contractor on behalf of County, agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.

- f. If Contractor has protected health information in a designated record set, Contractor agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.
- g. If Contractor has protected health information in a designated record set, Contractor agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, and in the time and manner designed by County.
- h. Contractor agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, County available to the County, or at the request of the County to the Secretary, in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- i. Contractor agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- j. Contractor agrees to provide to County or an Individual in the time and manner designated by County, information collected in accordance with Section (i) of this Schedule, to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- k. Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Contractor creates, receives, maintains, or transmits on behalf of County.
- l. Contractor shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- m. Contractor shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.
- n. Contractor shall report to County any Security Incident within 5 business days of becoming aware of such incident.
- o. Contractor shall make its policies, procedures, and documentation relating to the security and privacy of protected health information, including EPHI, available to the Secretary of the U.S. Department of Health and Human Services and, at County's request, to the County for purposes of the Secretary determining County's compliance with the HIPAA privacy and security regulations.

Permitted Uses and Disclosures by Contractor

Except as otherwise limited in this Schedule, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

Obligations of County

- a. County shall provide Contractor with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Contractor's permitted or required uses and disclosures.
- c. County shall notify Contractor of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

Permissible Requests by County

County shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by County, unless the Contractor will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Contractor.

Duties Upon Termination of Agreement

- a. Upon termination of the Agreement, for any reason, Contractor shall return or destroy all Protected Health Information received from County, or created or received by Contractor on behalf of County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.
- b. In the event that Contractor determines that returning or destroying Protected Health Information is infeasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protection Health Information.

Miscellaneous

- a. *Regulatory References.* A reference in this Schedule to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. *Amendment.* The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- c. *Survival.* The respective rights and obligations of Contractor under this Schedule shall survive the termination of the Agreement.
- d. *Interpretation.* Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. *Reservation of Right to Monitor Activities.* County reserves the right to monitor the security policies and procedures of Contractor

ATTACHMENT I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- a. Employs fewer than 15 persons.
- b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a)), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person - Type or Print

Voorhis Associates, Inc.

Name of Contractor(s) - Type or Print

201 East Simpson Street

Street Address or P.O. Box

Lafayette, CO 80026

City, State, Zip Code

I certify that the above information is complete and correct to the best of my knowledge.

Signature

Title of Authorized Official

Date

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form

I. Vendor Identification

Name of Contractor: Voorhis Associates, Inc.
Contact Person: John Milosovich
Address: 201 East Simpson Street
Lafayette, CO 80026
Phone Number: 303 665-8056
Fax Number: 303 665-8059

II. Employees

Does the Contractor have any employees? Yes No

Does the Contractor provide benefits to spouses of employees? Yes No

If the answer to one or both of the above is no, please skip to Section IV.

III. Equal Benefits Compliance (Check one)

- Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- No, the Contractor does not comply.
- The Contractor is under a collective bargaining agreement which began on _____ (date) and expires on _____ (date).
-

IV. Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Signature

Name (Please Print)

Title

Date