

THE CENTER TO PROMOTE HEALTHCARE ACCESS, INC.

**ONE-E-APP DEVELOPMENT & IMPLEMENTATION  
AGREEMENT**

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**THIS AGREEMENT** is made and entered into as of the 1st day of July, 2007 (the "Effective Date"), by and between The Center to Promote HealthCare Access, Inc. ("The Center") a California nonprofit public benefit corporation, 1333 Broadway, Suite 1020, Oakland, CA 94612, and County of San Mateo ("Client"), a county public agency organized under California law with its principal office at 225 37<sup>th</sup> Avenue, San Mateo, CA 94403

**WHEREAS**, the California HealthCare Foundation, a California non-profit, public benefit corporation ("CHCF"), owns or controls the One-e-App Software;

**WHEREAS**, CHCF has authorized The Center to provide installation, configuration, implementation, maintenance, enhancement and support services to Client with respect to its use of the One-e-App Software;

**WHEREAS**, Client desires to receive the Services from The Center; and

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual promises contained herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

**1. Services**

- a) The Center will provide Client with the services as set forth on Exhibit A attached hereto and made a part hereof (the "Services") in accordance with generally accepted industry practice standards. It is understood and agreed that the Services may include advice and recommendations regarding the use or operation of the One-e-App Software, but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, Client.
- b) The Center and Client agree to use reasonable efforts to meet the performance dates specified in Exhibit A. Nevertheless, the parties understand and agree that it may be necessary to change one or more of the specific start and stop dates contained in Exhibit A during the term of this Agreement. Notwithstanding any other provision of this Agreement, if The Center utilizes diligent efforts, but is unable to meet such dates, it shall not be considered to have defaulted in its obligations hereunder. The Center agrees to notify the Client promptly in writing if it expects to encounter, or does encounter, delays. If Client is unable to meet its obligations in a timely manner, a change order, subject to the prior written approval of The Center, may be required to address costs incurred by The Center during the Client delay and to set forth a revised schedule of performance of the Services.
- c) The Services may be performed away from the relevant Client site by The Center personnel.

**2. Payment of Invoices**

- a) For the Services provided by The Center hereunder, Client shall compensate The Center as set forth on Exhibit A attached hereto and made a part hereof. Client shall be responsible for any excise, sales, use or other similar tax as required by law, based upon charges or services rendered pursuant to the Agreement, if applicable, any of which may be paid by The Center on Client's behalf and added to Client's invoice. Client shall not be obligated to pay any taxes based on The Center's net income or property.
- b) The Center shall invoice Client according to payment schedules within Exhibit A. Invoices are due and payable within thirty (30) days of the invoice date. If Client does not pay the full amount of the invoice within five (5) days after the delivery to Client by The Center of written notice of delinquency, Client shall pay a late charge in the amount of the lesser of (i) 1½% per month or (ii) the highest rate allowable by law, in each case compounded monthly to the extent allowable by law. Without limiting its rights or remedies, The Center shall have the right to suspend or terminate entirely its Services for

cause as referenced in Section 3(b) on thirty (30) days notice if payment is not received within five (5) days of the date of delivery of the notice of delinquency.

### 3. Term

- a) Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2007 through June 30, 2010. The term and conditions of this Agreement are set forth in Exhibit A.
- b) This Agreement may be terminated by either party at any time with cause by giving written notice to the other party not less than thirty (30) calendar days prior to the effective date of termination, provided that in the event of a termination for cause, the breaching party shall have the right to cure the breach within the notice period. Either party may terminate this Agreement, without cause, after the first year of this Agreement by providing at least one hundred and eighty days (180) prior written notice to the other party, unless otherwise mutually agreed upon by the parties.
- c) The obligations of each party which have been incurred prior to the effective date of termination (including, without limitation, the obligations of Client under Section 2) shall continue in full force and effect notwithstanding the expiration or termination of this Agreement and whether or not an invoice has been rendered with respect thereto.

### 4. Ownership

- a) Ownership of The Center's Technology. The Center has created, acquired or otherwise has rights in, and may, in connection with the performance of the Services hereunder, will employ, provide, modify, create, acquire or otherwise obtain rights in, various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates, software, user interfaces, screen designs, tools, utilities, routines and materials (including, without limitation, billing and reimbursement systems) (collectively, "The Center's Technology"). To the extent that The Center creates or utilizes any of The Center's Technology, such property shall remain the property of The Center or its affiliates or licensors and Client shall acquire no right or interest in such property. Client acknowledges and agrees that The Center and/or its affiliates or licensors will own all right, title and interest, including, without limitation, all rights under trademark, copyright, patent and any other intellectual property laws, in and to The Center's Technology.
- b) Ownership of the One-e-App Software. CHCF owns or controls the One-e-App Software, including, without limitation, any and all modifications, enhancements, updates, and derivative works thereof, whether existing now or in the future. CHCF has entered into a license agreement with The Center authorizing it to enter into a sublicense agreement with Client (the "Sublicense Agreement") to use the One-e-App Software solely for the purposes and pursuant to the terms, conditions and restrictions specified in the Sublicense Agreement. Client's use of the One-e-App Software, including any modifications, enhancements, updates or derivative works thereof resulting from work performed by The Center pursuant to this Agreement shall be strictly subject to all of the terms, conditions and restrictions of the Sublicense Agreement.
- c) Ownership of the One-e-App Data. Both Client and The Center acknowledge that all data are the sole ownership of Client. The Center agrees that the Client will receive a full copy of its data on a Monthly basis as indicated in Exhibit A under Maintenance. The Center reserves the right to download data for maintenance and backup purposes only and it shall be maintained subject to the confidentiality requirements hereinafter described.

### 5. Confidentiality

- a) To the extent that, in connection with this Agreement, each party comes into possession of any proprietary or confidential information of the other party ("Confidential Information"), each party agrees to use the Confidential Information of the other party solely for the purposes of this Agreement, and will not disclose such Confidential Information to any third party without the other party's consent. Client acknowledges and agrees that The Center's Technology, including, without limitation, the One-e-App Software and any enhancements or derivative works thereof are



Confidential Information of The Center and/or its affiliates or licensors. Each party shall maintain the Confidential Information of the other party in confidence using at least the same degree of care as it employs in maintaining in confidence its own proprietary and confidential information, but in no event less than a reasonable degree of care.

- b) Confidential Information shall not include information which (i) shall have otherwise become publicly available other than as a result of disclosure by the receiving party in breach hereof, (ii) was disclosed to the receiving party on a non-confidential basis from a source other than the disclosing party, which the receiving party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing party, (iii) is developed by the receiving party independently of, or was known by the receiving party prior to, any disclosure of such information made by the disclosing party, or is disclosed with the written consent of the disclosing party. Neither party shall disclose Confidential Information to the extent prohibited by an order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by applicable regulatory or professional standards, or in connection with any judicial or other proceeding involving The Center and Client relating to The Center's Services for Client or this Agreement.
- c) A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or other administrative or legal process, or by applicable regulatory or professional standards, or in connection with any judicial or other proceeding involving The Center and Client relating to The Center's Services for Client or this Agreement.
- d) Upon the written request of Licensee, The Center shall enter into an addendum to this Agreement in which The Center agrees to fulfill its obligations as a "Business Associate" of Licensee, as defined by HIPAA, in the form that is attached in "Business Associate Addendum."

#### **6. Client Equipment**

If necessary for the performance of this Agreement, The Center may require that certain equipment owned or co-owned by Client (as described in Appedix A) be installed at the facilities of The Center's service providers, and The Center may arrange for the service providers to provide maintenance, security, electrical and telecommunications services. Client agrees to be bound by the applicable terms and conditions of The Center's contractual agreements with such service providers, as such agreements may be amended from time to time.

#### **7. Limitation on Warranties**

The Center warrants that it will perform services hereunder in good faith and in a manner consistent with industry standards of practice. The Center makes no express or implied warranties of any kind with respect to The Center's Technology, including, without limitation, the One-e-App Software and any enhancements, modifications, updates or derivative works thereof. The Center disclaims all other warranties, either express or implied, including, without limitation, warranties of merchantability and fitness for a particular purpose. Client's exclusive remedy for any breach of this warranty shall be for The Center, upon receipt of written notice, to use diligent efforts to cure such breach, or, failing any such cure in a reasonable period of time, the return of professional fees paid to The Center hereunder with respect to the services giving rise to such breach.

#### **8. Limitation on Damages and Actions**

CLIENT AGREES THAT THE CENTER, ITS AFFILIATES, LICENSORS, AND AGENTS, AND EACH OF THEIR PARTNERS, PRINCIPALS, OFFICERS, DIRECTORS, EMPLOYEES OR OTHER PERSONNEL SHALL NOT BE LIABLE FOR ANY ACTIONS, DAMAGES, CLAIMS, LIABILITIES, COSTS, EXPENSES, OR LOSSES (COLLECTIVELY, THE "DAMAGES") IN ANY WAY ARISING OUT OF OR RELATING TO THE SERVICES PERFORMED HEREUNDER FOR AN AGGREGATE AMOUNT IN EXCESS OF THE FEES PAID BY CLIENT TO THE CENTER FOR THE SERVICES GIVING RISE TO SUCH DAMAGES. IN NO EVENT SHALL THE CENTER, ITS AFFILIATES, LICENSORS, AGENTS OR ANY OF THEIR PARTNERS, PRINCIPALS OFFICERS, DIRECTORS, EMPLOYEES OR OTHER PERSONNEL BE



LIABLE FOR CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, COSTS, EXPENSES, OR LOSSES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND OPPORTUNITY COSTS). THE PROVISIONS OF THIS SECTION SHALL APPLY REGARDLESS OF THE FORM OF ACTION, DAMAGE, CLAIM, LIABILITY, COST, EXPENSE, OR LOSS, WHETHER IN CONTRACT, STATUTE, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR OTHERWISE.

**9. Cooperation**

The parties shall cooperate with each other in the performance their respective duties hereunder. Each party shall be responsible for the performance of its employees and agents and for the accuracy and completeness of all data and information provided to the other party hereunder. Each party acknowledges and agrees that the performance of the other party is dependent in part upon the timely and effective satisfaction of its responsibilities hereunder. Each party shall be entitled to rely on all decisions and approvals of the other party.

**10. Non-Exclusivity**

This Agreement shall not preclude or limit in any way (i) the right of The Center to provide consulting or other services of any kind or nature whatsoever to any individual or entity as The Center in its sole discretion deems appropriate, or (ii) developing for itself or for others, materials that are competitive with those produced as a result of the Services provided hereunder, irrespective of their similarity to the Services, provided that such materials do not use or contain confidential or privileged Client information.

**11. Non-Solicitation**

During the term of this Agreement and for a period of one (1) year thereafter, neither party shall directly or indirectly employ, solicit or retain the services of the personnel of the other party who are involved in the receipt or provision of the Services, for its own benefit or the benefit of another, **except through an openly advertised recruitment process** as expressly authorized by the other party in writing. A party shall not be in breach of this Section if those responsible for the solicitation and subsequent hiring or retention of the other party's personnel were not aware of the prohibition contained in this section; however, personnel of both parties engaged in the provision or acceptance of Services hereunder shall be presumed to know of the prohibition. In the event a party breaches this provision, the breaching party shall be liable to the aggrieved party for an amount equal to thirty percent (30%) of the first year's annual base compensation of the relevant personnel in his/her new position. Although such payment shall be the aggrieved party's exclusive means of monetary recovery from the breaching party for breach of this provision, such a breach shall be considered a material breach of this Agreement and the aggrieved party's remedies of termination, injunction and damages shall be cumulative. Notwithstanding the above, this Section shall not be applicable to either party if the other party's employees who are seeking employment or work are doing so in response to a general advertisement for the work or position run by the other party or has voluntarily sought employment or work from the other party.

**12. Waiver of Jury Trial**

**Each of the parties hereby irrevocably waives, to the fullest extent permitted by law, all right to trial by jury in any action, proceeding or counterclaim (whether in contract, statute, tort (including, without limitation, negligence) or otherwise) relating to this engagement.** Nothing in this section of the Agreement or any other section shall be deemed or construed to constitute a waiver by Client of any sovereign immunity it may have as a county public agency under the Welfare and Institutions code or any other provision of California law.

**13. Transfer of Data, Data Documentation, Software and Hardware**

At Client's reasonable request in the event that this Agreement terminates for any reason or should The Center cease to do business or become insolvent or bankrupt, The Center shall promptly transfer to Client: i) all of Client's data that The Center has in an electronic format or other format reasonably acceptable to Client; ii) all of the data documentation that The Center has, e.g. data model, data table descriptions, data field descriptions, technical architecture schema, or other similar documents used to support or operate the



system; and iii) all web servers and any associated operating software specifically purchased by The Center or its affiliates for Client. The transfer of these items shall be at no cost to Client, other than reimbursement of media expenses by Client to The Center. This provision shall survive the termination of this Agreement.

#### 14. Other Terms

- a) Force Majeure. Except for the payment of money, neither party shall be liable for any delays or other non-performance resulting from circumstances or causes beyond its reasonable control, including, without limitation, acts or omissions or the failure to cooperate of the other party (including, without limitation, entities or individuals under its control, or their respective officers, directors, employees or other personnel and agents), acts or omissions or the failure to cooperate by any third party (other than The Center's subcontractors), fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.
- b) Independent Contractor. Each party is an independent contractor, and neither party is, nor shall represent itself to be, an agent, partner, fiduciary, joint venturer, co-owner or representative of the other. No relationship of employer and employee is created by this Agreement, it being understood that each party shall act hereunder as an independent contractor; that neither party, its officers nor employees become employees of the other party and neither shall have any claim under this Agreement or otherwise against the other for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, retirement benefits, Social Security, disability, Worker's Compensation or unemployment insurance benefits, or employee benefits of any kind; and that The Center shall be solely liable for and obligated to pay directly all applicable Federal and State income taxes and in connection therewith, The Center shall indemnify and hold the Client harmless from any and all liability which the Client may incur because of The Center's failure to pay such taxes.
- c) Client Property. The Center shall not use Client premises, property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of the Services.
- d) Conformity with Law. The Center and the Client shall observe and comply with all laws, ordinances, codes and regulations of governmental agencies, including Federal, State, municipal and local governing bodies, having jurisdiction over the Services.
- e) Insurance. While performing the Services, The Center shall carry, at its own expense and for its own benefit (i) commercial general liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence; (ii) worker's compensation insurance complying with statutory requirements; and (iii) comprehensive motor vehicle liability insurance with combined bodily injury and property damage coverage of \$1,000,000 per occurrence and covering owned and hired vehicles.
- f) Federal and State Audits. Until the expiration of five (5) years after the furnishing of the Services, The Center shall make available, when legally required by the Federal/State government, or any of their duly authorized representatives, this Agreement and such books, documents and records of The Center that are necessary to certify the nature and extent of the payments made by Client for invoices issued by The Center for the Services. If The Center enters into any subcontract with any related organization to provide the Services or any portion thereof with a value or cost of \$10,000 or more over a twelve month period, such subcontract shall contain a clause to the effect that until the expiration of five years after the furnishing of such services, the related organization shall make available, when legally required by the Federal/State government, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs. This Section shall be of no force and effect when and if it is not required by law. The Client shall have the right to review The Center's financial records relating to fees and expenses invoiced hereunder for purposes of confirming the accuracy thereof. Such records shall be complete and available for review 90 days after final payment hereunder and shall be retained and available for review purposes for five years after final payment hereunder.

- g) Dispute Resolution. In the event of a dispute, The Center, Client's Project Manager and The Center's Project Manager shall use good faith efforts to attempt to resolve the dispute promptly. If such persons are unable to resolve the dispute within thirty (30) days, the parties agree to submit the dispute to mediation before a mutually acceptable mediator. The costs of mediation, not including costs incurred by a party for representation of counsel in preparation for or at the mediation, shall be shared equally by the parties. If the dispute cannot be resolved within thirty (30) days after the mediation session, either party may submit the dispute to a court of competent jurisdiction.
- h) Survival. All sections herein relating to payment, license and ownership, confidentiality, warranties, limitations of warranties, limitations on damages and actions, non-exclusivity, non-solicitation, waiver and waiver of jury trial, and all other provisions that by their terms are intended to survive the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.
- i) Interpretation. For the purposes of this Agreement, "The Center" shall mean The Center to Promote HealthCare Access, Inc. and its successors and assigns.
- j) Notices. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (a) by personal delivery when delivered personally; (b) by overnight courier upon written verification of receipt; (c) by telecopy or facsimile transmission upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the addresses set forth below or such other address as either party may specify in writing.

To The Center: Claudia Page  
 Director  
 The Center to Promote HealthCare Access, Inc  
 1335 Broadway  
 Oakland, CA 94617

To Client: Marmi Bermudez  
 Program Manager, Children's Health Initiative  
 County of San Mateo-Health Department-Health Policy and Planning  
 225 37<sup>th</sup> Avenue  
 San Mateo, CA 94403

Either party may change its address for notice by giving the other party prior written notice of the new address in conformity with the foregoing and the date upon which such new address will become effective.

- k) Assignment. Except as provided below, neither party may assign, transfer or delegate any of the rights or obligations hereunder (including, without limitation, interests or claims relating to this Agreement) without the prior written consent of the other party provided however, that the Center may, without consent of the Client, (1) retain in its sole discretion subcontractors to perform the Services, and (2) in the event that CHCF terminates for any reason the license granted to The Center to perform the Services under this Agreement, Client will recognize CHCF or its new licensee, as applicable, as the assignee under this Agreement. If requested by CHCF, Client shall execute and deliver an instrument or instruments confirming its recognition of the successor assignee.
- l) Waiver. The failure of either party to insist upon strict performance of any of the provisions contained in this Agreement shall not constitute a waiver of its rights as set forth in this Agreement, at law or in equity, or a waiver of any other provisions or subsequent default by the other party of any of the terms or conditions in this Agreement.
- m) Entire Agreement. This Agreement, including any Exhibits attached hereto and made a part hereof, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all other oral or written representations, understandings or agreements relating to



the subject matter hereof, and may not be amended except by a written agreement signed by the parties.

- n) Governing Law. This Agreement and all matters relating to this Agreement (whether in contract, statute, tort (including, without limitation, negligence) or otherwise), shall be governed by, and construed in accordance with, the laws of the State of California and applicable federal law (without giving effect to the choice of law principles thereof).
- o) Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth in this Agreement.
- q) Indemnification. Subject to Section 8, The Center will indemnify, defend and save harmless Client, its agents, officers and employees, from and against any and all liability, expense, including reasonable defense costs and reasonable legal fees, and claims for damages, in each case solely for bodily injury, death, damage to real or tangible personal property to the extent directly and proximately caused by the The Center, while engaged in the performance of services under this Agreement, provided, however, that if there also is fault on the part of Client or any entity or individual indemnified hereunder or any entity or individual acting on Client's behalf, the foregoing indemnification shall be on a comparative fault basis. The foregoing indemnity obligations are conditioned on Client providing The Center with prompt notice of any claim for which indemnification shall be sought and cooperating in all reasonable respects with The Center in connection with any such claim. The Center shall be entitled to control the handling of any such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing.
- r) 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.

**IN WITNESS WHEREOF,** The Center and Client have caused this Agreement to be executed and delivered by their respective duly authorized representatives as of the date first set forth above.

**THE CENTER**

By: Claudia Page  
Name: Claudia Page  
Title: Director  
Date: 7-18-07

**CLIENT**

By: County of San Mateo  
Name: Rose Jacobs-Gibson  
Title: President, Board of Supervisors  
Date: \_\_\_\_\_

**ATTACHMENTS**

The following exhibits are attached hereto and incorporated into this agreement.

Exhibit A- Scope of Services

Exhibit B- Response and Performance Standards

Exhibit C - Business Associates Addendum

## **APPENDIX A**

### **SCOPE OF SERVICES**

#### **ONE-E-APP MAINTENANCE AND ENHANCEMENT**

##### **Terms of Agreement**

The Term of this Agreement shall be from July 1, 2007 through June 30, 2010.

##### **Scope of Services**

The Center will work with the Client to configure the *core* features of One-e-App and validate the Client specific requirements and design, configure, and implement specific capabilities (*custom* features) of One-e-App. These One-e-App capabilities are the underpinnings of an electronic application management system that will gather the applicant information via a browser user interface and store information in a relational database management system. The Client uses One-e-App, a web-based application processing system, to screen and enroll individuals and families for Medi-Cal, Healthy Families, Healthy Kids, WELL, WELL Plus, and the Discounted Health Care Program, respectively.

One-e-App has two components: 1) *Core* components are those that are shared by the majority of One-e-App users. These application functions and features are available to all users. 2) *Custom* application functions and features are those that augment core features and are designed to support the specific needs of one or more users, but are not available for use by all users. This agreement covers both core and custom features.

##### **Responsibilities**

It shall be the responsibility of each party to identify to the other party that other information it considers confidential other than that identified above in Section 5.a) of this Agreement. Should Client receive a Public Records Act request for any confidential information, Client shall provide notice to The Center, and it will be the responsibility of The Center to take court action for an order that such information need not be provided, and Client is not responsible for any disclosure under the Public Records Act after written notice has been provided.

Given the parameters outlined in the scope above, the responsibilities of the participants in the maintenance and enhancement of the Client's One-e-App system are outlined below.

##### **The Center Responsibilities**

The Center shall be responsible for performing the following Services in accordance with the terms of this Agreement and generally accepted practice standards:

##### **Compliance with Employee Jury Service Ordinance**

The Center 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 Center, 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 employee's deposit any fees received for such jury service with The Center or that The Center deducts from the employees regular pay the fees received for jury service.

##### **Compliance with Non-Discrimination and Other Requirements**

In accordance with the San Mateo County Administrative Memorandum and Ordinances, The Center will comply with the following



- A. The Center 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.* The Center 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.* **In the event of a dispute between the Center and any person on the grounds of a violation of the non-discrimination provisions of paragraphs A - C of this Section, the Center shall use good faith efforts to attempt to resolve the dispute promptly.** 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 Center 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 the Center'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 the Center under the Contract or any other Contract between the Center and County.

The Center 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 the Center 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. The Center 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, the Center 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.

The Center shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5 (a), which is incorporated herein as if full, set forth.

## **Maintenance**

- Maintain a production technical environment and telecommunications infrastructure to host the One-e-App application, which will include the centralized SQL Server database with a specific database instance that is allocated and secure for the Client, but infrastructure shared by other One-e-App clients.
- Maintain a training environment (also used for user acceptance testing) for the One-e-App application that is a replica of the One-e-App production environment and available to the Client to conduct demonstrations and training as coordinated with The Center.

- Maintain the One-e-App production and training technical environments (in accordance with Exhibit B) for the term of the contract which includes the following services:
  - Secondary-level help desk support (9:00 AM – 5:00 PM PST, Monday through Friday);
  - Bug fixes to the One-e-App application, as implemented (Bugs introduced as a result of enhancements made on behalf of the Client are not considered maintenance, but will be addressed and resolved as part of the preparation for implementing the enhancement in accordance with the performance standards set forth in Exhibit B);
  - Server hardware and software maintenance:
    - Installing third party software upgrades, where appropriate
    - Maintaining or managing maintenance agreements with third party software vendors where the third party software is used as part of the production environment
    - Installing patches, where appropriate
    - Installing point release upgrades where appropriate;
    - Weekly maintenance tasks to ensure that an optimal state of the system architecture (i.e. defragmentation of the operating system and databases)
  - Establish virus protection by running anti-virus software at the server level;
  - Monitor and review system performance, consisting of:
    - Availability of system
    - Document management solution
    - Monitor interface activity
    - Testing One-e-App application performance on a monthly basis, or more frequently, if necessary;
    - Maintenance of real time and batch interface activity
    - Maintenance of daily batch jobs
    - Periodically validate that the Health-e-App and CalWIN interfaces stays in sync with appropriate systems of record
    - Maintenance and monitoring of data replication processes and the FTP site
  - Telecommunications infrastructure management for the hosted One-e-App application at the One-e-App Data Center:
    - Switch
    - Router
    - Load balancer
    - Fax servers
    - T1, fax telephone, help desk phones and conference call telecommunication services required to support the One-e-App application
    - Verisign certificates and encryption key
  - Monitoring of the system architecture on a daily basis
    - Monitoring the activity on the network
    - Monitoring the web server memory, hard disk and CPU performance
    - Space management on production servers
  - Perform database management
    - Perform daily incremental back-up on-site and weekly off-site storage
    - Conduct performance monitoring weekly, that includes regular stress testing
    - Conduct database sizing analysis monthly
    - Monitor the One-e-App database instances
    - Monitor the timely and complete distribution of data to the Client based on the process established at May 31, 2005.
  - Establish and maintain a contingency or disaster plan to protect the Client in case of a system failure which is available to the Client upon request.
  - Perform FPL updates yearly as set by Federal rules
  - Perform Healthy Kids eligibility rules changes that mirror those of Healthy Families when changes to Healthy Families are made. These changes will not exceed 40 hours/year of eligibility rules changes. Should the changes exceed 40 hours/year, The Center will provide the County with the resource, timeframe, and cost impacts of the proposed change.
  - Monitor and report interconnections between Pilot Counties
  - Provide weekly status reports on help desk calls.
  - In accordance with Section 6 of the General Terms and Conditions of this Agreement, the Client has a web server which was purchased in 1993 and is currently in service at The Center's data center to



support the production and training environments of the Client. This server is obsolete and will be removed from production level service in fiscal year 2007-2008 at which point the Client's application and database will be moved to a totally shared environment with all other counties and clients who use One-e-App.

- Maintenance and support performance standards are delineated within Exhibit B.

## **Enhancement**

The Client would like to enhance their version of One-e-App to include:

### *Inclusion of Retroactive MC Forms*

Enhancement will incorporate the MC 213 form in the system. One-e-App will generate the form with the applicant's information. This feature will enable assistors to expedite the Medi-Cal application process in One-e-App.

### *Inclusion of MC Citizenship Forms*

Description: Enhancement will incorporate the MC 13 form in the system. One-e-App will generate the form with the applicant's information. This feature will enable assistors to expedite the Medi-Cal application process in One-e-App.

For these enhancements, The Center will:

- Confirm requirements and design with the Client,
- Complete the changes and conduct unit testing,
- Support the Counties conduct of user acceptance testing (UAT), which includes:
  - Support the Client to conduct training of user acceptance testing group,
  - Implement framework to capture issues identified by testers, and
  - Monitor and support 1 week of UAT.
- Make changes identified and agreed to based on acceptance testing results. Once the functionality has been tested in UAT, there will be one round of re-testing for a period not to exceed two days. It shall be the Client's responsibility to conduct this re-testing. The Client shall identify and record issues as part of this user acceptance testing. The recorded testing issues (we expect this will be done using the automated UAT log tool provided by The Center) will be due to The Center within 24 hours of the conclusion of testing. The Center will categorize the issues identified as High, Medium, Low or Change Order based on documented requirements. The Center will correct High and Medium issues prior to go live. Low priority items will be scheduled as part of regular production releases. The Client shall have one day to re-validate that the High and Medium issues were corrected. No new issues or considerations that were not previously identified as part of the testing will prevent the enhancement from being published and considered go live. Additional items identified will be considered as part of future production releases or as change orders.
- Implement One-e-App application in the production environment for the Client's ongoing use which is equivalent to "go live".

While San Mateo may be considering other enhancements, they have not yet authorized them to be included in this agreement. Therefore, should other enhancements be identified, this agreement will be modified through the change order process which include an amendment to this agreement.

## **Core Enhancements**

From time to time, upgrades and changes will be made to enhance One-e-App core features. These changes may be financed by third parties, other One-e-App Clients and/or the Client in concert with other One-e-App clients. The Client will be obligated to support reasonable maintenance of these upgrades. The Client will be given written notice of the new maintenance fees and expected timeline prior to the development work on the

enhancement begins. The Client is obligated to implement the enhancement and to begin payment for maintenance no later than one month after the announced availability of the enhancement. Core and maintenance cost changes will require a change order. Core and maintenance cost changes will require a change order. The Client will have an opportunity to conduct user acceptance testing on the enhancement and the enhancement will be supported by a written description and demonstration of the functionality. As indicated below, there may be ongoing maintenance fees associated with these core enhancements that will be the obligation of the Client to support.

### **The Client's Responsibilities**

The Client will be responsible for performing the following tasks:

- Provide a project manager representing the project participants, who is empowered to make daily project decisions.
- Provide appropriate mechanisms to resolve issues in a timely manner so the maintenance schedule is not adversely impacted.
- Provide subject matter experts to participate in testing activities, as needed.
- Assign a technical resource as a contact for ongoing application maintenance.
- Provide help text to be inserted into the application.
- Provide Spanish or other language translations for all customizations and help text. This is typically done after the final design is complete to avoid rework created by revisions to the web pages. Maintenance of translations will be the Client's responsibility.
- Coordinate the participation of the Client's staff involved in the One-e-App project in any required discussions, meetings, or other activities.
- Coordinate, complete, and maintain the setup of the technical infrastructure requirements at the Client's user sites.
- Establish workspace for The Center project staff to be used on an ad hoc basis. The workspace should include a telephone, access to the Internet and space for at least 2 staff.
- Provide implementation support to the users.
- Attend meetings, as required, to support maintenance and enhancement of One-e-App.
- Prepare training materials and provide end user training (Assuming that The Center is not used to support the training effort as part of this scope of work).
- Provide ongoing first tier help desk support. Teach the Client's users when and how to contact The Center second tier help desk.

### **Assumptions**

Our assumptions for the maintenance and enhancement of the One-e-App application include the following:

- The Client has established an organizational structure to support the maintenance and enhancement of the Client's One-e-App system so as to make timely decisions, prepare the Client's participants for adoption of this system and contribute Subject Matter Experts (SME) as scheduled for Joint Requirements Planning sessions (JRPs), Rapid Application Development sessions (RADs), User Acceptance Testing sessions (UATs), Training and other sessions that will be conducted as part of completing the requirements set forth in this contract.
- The One-e-App enhancements will be based on the process flow, database design, and hardware and software infrastructure of the current One-e-App application, whenever practical.
- The Client will work collaboratively with other counties that are implementing, or have implemented, the One-e-App application through The Center.
- The fees, as quoted in this scope of services, are based upon the Client and other One-e-App clients sharing the costs of maintenance and enhancement for their specific One-e-App application with other One-e-App clients. Should such sharing not take place, the fees are subject to adjustment.
- The Client will provide appropriate information technology staff resources access to the Internet (high speed where available), and prepare the desktops and laptops to be used to support the implementation of the One-e-App application.
- The Client will be responsible for training and supporting staff that will use One-e-App, unless otherwise included in the "Enhancement" section of this Appendix A.



- The infrastructure proposed is scaled to accommodate 80 concurrent users. If the number of concurrent users exceeds this number, there will be an additional cost of \$18,000 to add web servers and associated configuration, testing and installation. A contract amendment will need to be initiated to include these additional users and the additional cost.
- The Center will monitor the database size and activity and over the course of time, we will notify the Client should it become necessary to upgrade the database or add additional infrastructure to support the application. The costs for these upgrades will be the responsibility of the Client.
- The Center will maintain the Client's One-e-App for the term of this contract. This pricing for maintenance is only available to the Client because of their participation and commitment to the One-e-App pilot.
- The Client will provide translations for the application.
- The scope of this agreement does not include retro fix of any application or person data in One-e-App that were created before the changes were deployed into the production environment. Should a need arise for the retro fix of such data, a separate change order will be required.
- The Client will provide first level help desk support for One-e-App.
- The Center will support up to two, one-hour calls per month with Client analyst from The Center and Client representatives to discuss One-e-App.
- Any changes to the requirements specified herein will require an additional change order.
- This maintenance contract includes 40 hours/year of eligibility rules changes to Healthy Kids in the event that Healthy Families rules changes. The County will work with The Center to identify and determine what the changes to the rules are for Healthy Kids based on the changes to the Healthy Families rules.
- Cost estimates are contingent on the Client's timely participation, decision-making, review, testing and feedback on changes. The Client is responsible for providing testers, managing the testing process and providing the feedback to The Center. Feedback must be received in written form in the timeframes specified above. If feedback is not provided in these timeframes, the changes will be deemed accepted.
- CalWIN will be maintained to support the interface from One-e-App.

#### **Source Code Access in the Case of Insolvency of The Center and CHCF**

Should The Center and CHCF both become insolvent the source code of the San Mateo version of the One-e-App software will be provided to the Client so that they can productively continue to use the One-e-App software including any modifications, enhancements, updates or derivative works thereof shall be strictly subject to all of the terms, conditions and restrictions of the Sublicense Agreement.

#### **Services Fees and Payment Schedule**

The Center will perform services for the fees identified in the schedule below, based on the assumptions set forth above. The Center has provided a pricing model based on a shared-infrastructure model for One-e-App. Based on the high-level requirements meeting and discussions with the Client's representatives, these prices are reflective of what we understand your required enhancements.

San Mateo County Summary Costs for One-e-App			
Description	Amount	Totals	Monthly Additional Maintenance for Enhancement*
<b>Annual Maintenance Costs</b>			
<b>Fiscal Year 2007-2008***</b>			
Hardware and Software Maintenance	\$ 62,406		
Ongoing Network Costs - T1, Fax Lines, 800# for Help Desk	\$ 59,839		
Technical Support and Help Desk	\$ 62,406		
2007-2008 Maintenance (68% Base Maintenance; 32% Well, DHC and AMC Maintenance) [Monthly \$15,387]		\$ 184,651	
Fiscal Year 2008-2009 (Annual Increase of 8%) [Monthly \$16,915]		\$ 202,987	
Fiscal Year 2009-2010 (Annual Increase of 8%) [Monthly 18,269]		\$ 219,226	
<b>Total Three Years of Annual Maintenance</b>		\$ 606,864	
<b>Enhancements Fiscal Year 2007-2008***</b>			
Inclusion of Retroactive Medi-Cal Forms	\$ 15,000		\$ 250
Inclusion of Medi-Cal Citizenship Forms	\$ 3,000		\$ 25
<b>Total Enhancements</b>	\$ 18,000	\$ 18,000	\$ 275
<b>Total Contract Amount</b>		\$ 624,864	\$ 3,300

\* Monthly Additional Maintenance to be charged at the beginning of the month of go-live of the enhancement.

\*\* Monthly Maintenance is due at the beginning of the month and due on a monthly basis.

\$3,300 is the total possible maintenance that could be charged for the enhancements included in the agreement.

\*\*\* This does not include the changes and enhancements required to support the new Well Plus program.

Maintenance costs associated with enhancements made by any third party or by The Center to the core functionality of the One-e-App application are not included in the aforementioned cost schedule. This Agreement will need to be amended for the Client to pay its share of maintenance fees for enhancements made by such third parties or by The Center to the core One-e-App application. As noted above, the Client will be given notice of the new maintenance fees and expected timeline prior to the development work on the enhancement begins.

The Maintenance Costs identified above will be invoiced at 1/12 of the annual total per month, beginning on the first day of the month for the month that One-e-App maintenance is to be provided by The Center.

The Enhancement Costs are to be paid 1/3 at start up, 1/3 when User Acceptance Testing begins and 1/3 when the enhancement goes live. The maintenance associated with the enhancement is due at the beginning of the first month in which the enhancement goes live and then at the beginning of each month, thereafter.

In no event shall the County's total fiscal obligation under this Agreement exceed \$624,864 without appropriate amendment to this Agreement.



## APPENDIX B

### RESPONSE AND PERFORMANCE STANDARDS

#### Technical Service Levels

The One-e-App production application and hardware will be available during normal business hours unless otherwise coordinated between parties or in the event of outages. Normal business hours are defined as Monday through Friday, 9:00 a.m. - 5:00 p.m.

- The Center One-e-App Support Team will notify the Client when the application performance is impacted.

Throughout the maintenance support process, The Center will record support issues, and development responses and a summary will be provided to the Client.

#### Application Service Levels

When an issue is reported to The Center One-e-App Support Team, it will be assigned a level of severity. The Center recognizes that loss of functionality could adversely affect a Client member's ability to obtain needed health care services. The Center therefore agrees to use reasonable efforts to resolve issues as soon as possible, and whenever possible, within the time periods referenced below.

The four different levels of severity are:

- **Critical.** Issues that involve work stoppage are defined as follows:
  - A significant number of users are unable to access the system. All users at a single location or multiple users across multiple locations.
  - The system is down, or data has been lost due to a suspected failure of the One-e-App software.
  - There is evidence of software malfunction that could lead to the possibility of large amounts of data being corrupted or lost.
  - Loss of functionality, which creates the inability of users to perform a singular business task, which is critical but does not impair functionality in other modules or other tasks.
  - Limited data loss, which adversely affects processing.

**Response Standard:** Critical issues will be acknowledged by The Center to the Client within two (2) hours. If a workaround is available, The Center will implement the workaround within four (4) hours of receipt of the issue (during business hours), or within four (4) hours on the first business day after an issue is reported if it is reported during non-business hours. The problem will be addressed in the application as quickly as the issue can be fixed and thoroughly tested in the application.

- **High.** Severe problems that involve work slowdowns are defined as follows:
  - Loss of functionality, which creates the inability of users to perform a singular business task, which is not necessarily critical and does not impair functionality in other modules or other tasks.
  - Limited data loss, which does not adversely affect more than one area of the application.

**Response Standard:** High severity issues will be addressed in the application upon its next release, but not to exceed a one week time period. If a workaround is available, it will be given with eight (8) hours of receipt of the issue (during business hours), or on the second business day after an issue is reported if it is reported during non-business hours.

- **Medium.** Non-critical problems that have some impact on the user are defined as follows:
  - Loss of functionality in a limited capacity within a module that does not impair ability to perform business tasks.
  - The system is operational, but the user is experiencing problems or has questions on features or results.
  - The issue has little impact on the system as a whole, and the majority of users can access and utilize the system with ease.

**Response Standards:** Medium severity issues will be addressed in the application in a future release of the system. If a workaround is available, it will be given within 24 hours of receipt of the issue (during business hours), or on the third business day after an issue is reported if it is reported during non-business hours.

- **Low.** This includes problems that do not fall into the categories above and defined as follows:
  - Minor aesthetic defects, which do not adversely affect the performance of the application.

**Response Standard:** Low severity issues will be addressed in the application in a future system release.

### **Performance Standards**

Notwithstanding any on-line disclaimers, any provision of this Agreement to the contrary or circumstances outside of The Center's control such as Public Internet availability, in providing the services described in this Agreement, The Center will make meet the following standards:

- ✓ Response Time for Outages -- One-e-App will respond to outages within thirty minutes;
- ✓ Notice of Outages -- One-e-App shall notify the Client of scheduled server computer/network outages in advance (48 hours in advance, whenever possible) and will notify the Client of any unscheduled outage which One-e-App believes will last longer than 30 minutes;
- ✓ Bandwidth and Storage-- One-e-App will support bandwidth and storage, with updates that Client is entitled to have under this Agreement, plus sufficient capacity and storage for additional updates that the Client may pay extra and amend this Agreement to have The Center host;
- ✓ Systems Backup -- The Center will back-up the One-e-App System in accordance with commercially reasonable standards;
- ✓ Security -- The Center will take commercially reasonable steps, including real time security monitoring, to prevent unauthorized access to the One-e-App Data Base, Content, User Content and Confidential Information stored on the site;
- ✓ Maintenance and Support -- The Center provide real time site performance monitoring, load balancing and traffic routing. The Center will notify Client of any errors identified and will ensure that only competent technicians will correct software-based server errors, provide courteous user support and reply to user inquiries as indicated in response times noted above;
- ✓ Timeliness of initial release and subsequent updates of One-e-App -- within the estimated time frames specified by The Center in this Agreement or within commercially reasonable timeframes, if those estimated time frames cannot reasonably be met due to circumstances beyond The Center's control.



## APPENDIX C

### HIPAA BUSINESS ASSOCIATE ADDENDUM

This Addendum is entered into as of July 1, 2006 by and between The Center to Promote HealthCare Access, Inc. a California non-profit, public benefit corporation ("The Center") and the Client, a County of San Mateo, (the "Covered Entity").

Covered Entity and The Center have entered into that certain sublicense agreement entitled "One-e-App Software Sublicense Agreement" (the "Principal Agreement") dated July 28, 2005, pursuant to which Covered Entity is permitted to use the One-e-App Software.

Under the Principal Agreement, The Center may receive Protected Health Information ("PHI") from Covered Entity, or generate PHI on behalf of Covered Entity. In this addendum, PHI includes any information that The Center receives from or generates for Covered Entity, that identifies the individual, or could be used with other available information to identify the individual, and that concerns the individual's health condition or health care, including payment for health care. The parties desire to enter into this agreement to implement the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and the regulations promulgated thereunder, in particular the security and privacy regulations, 45 CFR Parts 160 and 164.

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

(i) Permitted Uses and Disclosures of PHI.

- (A) The Center may use PHI for the purposes set forth in the Principal Agreement.
- (B) Nothing in this addendum or the Principal Agreement shall be construed to require or permit any use or disclosure that Covered Entity is not permitted to make under 45 CFR Part 164, except that The Center may use and disclose PHI for the proper management and administration of The Center's business and to carry out its own legal responsibilities, as long as, in the case of any disclosure pursuant to this subparagraph (B), either:
  - i) The disclosure is required by law; or
  - ii) The Center obtains reasonable assurances from the person to whom the information 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 such person, and that the person will notify The Center of any instances of which it is aware in which the confidentiality of the information has been breached.

(ii) The Center shall:

- (A) Not use or further disclose PHI except as permitted or required by this addendum, or required by law.
- (B) Use appropriate safeguards to prevent use or disclosure of PHI otherwise than as permitted by this addendum, including administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Covered Entity's electronic PHI. .
- (C) Report to Covered Entity any use or disclosure of PHI not provided for by this addendum of which The Center becomes aware, and any security incident concerning electronic PHI.
- (D) Ensure that its agents, including any subcontractor, to whom it provides PHI agree to the restrictions and conditions that apply to The Center with respect to such information and implement the safeguards required by paragraph (B) above with respect to electronic PHI.
- (E) Make PHI available to Covered Entity or any person authorized by Covered Entity for inspection and copying within twenty (20) days of request by the Covered Entity.

- (F) Promptly report to the Covered Entity the following information concerning all disclosures of PHI by The Center or any subcontractors or agents to whom it discloses PHI upon request, other than disclosures to carry out treatment, payment and health care operations on behalf of Covered Entity, or that are incident to such disclosures: (i) the date of the disclosure; (ii) the name of the entity or person who received the PHI and, if known, the address of such entity or person; (iii) a description of the PHI disclosed; (iv) a statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure or, in lieu of such statement, a copy of the written request for the disclosure, if any; and (v) such other information as the Covered Entity may request in order to fulfill its legal obligations to account for disclosures to the individual.
- (G) Make its internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary of the United States Department of Health and Human Services, for purposes of determining the Covered Entity's compliance with its legal obligations.
- (H) Upon termination of the Principal Agreement, return or destroy all PHI that it maintains in any form, and shall retain no copies of such information or, if the parties agree that return or destruction is not feasible, extend the protections of this agreement to such information, and limit further use and disclosure of the information to those purposes that make the return or destruction of the information infeasible.
- (iii) No Third Party Beneficiaries. There are no third party beneficiaries of this Addendum.
- (iv) Breach. Anything in the Principal Agreement to the contrary notwithstanding, Covered Entity may immediately terminate this agreement if it determines that The Center has violated a material term of this Addendum, and The Center fails to remedy the violation within thirty (30) days of receipt of written notice thereof.

THE CENTER

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

COVERED ENTITY

Name of Entity: County of San Mateo

Signature: \_\_\_\_\_

Printed Name: Rose Jacobs-Gibson

Title: President, Board of Supervisors



**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 Protected 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.

Renee Rivera  
Name of 504 Person - Type or Print

Center to Promote HealthCare Access  
Name of Contractor(s) - Type or Print

1333 Broadway, Ste 1020  
Street Address or P.O. Box

Oakland, CA 94612  
City, State, Zip Code

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

[Signature]  
Signature

Director of Finance and Administration  
Title of Authorized Official

6/8/07  
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  
Contractor's Declaration Form**

**I. CONTRACTOR INFORMATION**

Contractor Name:	The Center to Promote Health Care Access	Phone:	510-834-1300
Contact Person:	Claudia Paige	Fax:	510-834-1301
Address:	1333 Broadway, Suite 1020 Oakland, CA 94612		

**II. EQUAL BENEFITS** (check one or more boxes)

*Contractors with contracts in excess of \$5,000 must treat spouses and domestic partners equally as to employee benefits.*

- ☒ Contractor complies with the County's Equal Benefits Ordinance by:
- ☒ offering equal benefits to employees with spouses and employees with domestic partners.
  - ☐ offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- ☐ Contractor does not comply with the County's Equal Benefits Ordinance.
- ☐ Contractor is exempt from this requirement because:
- ☐ Contractor has no employees, does not provide benefits to employees' spouses, or the contract is for \$5,000 or less.
  - ☐ Contractor is a party to a collective bargaining agreement that began on \_\_\_\_\_ (date) and expires on \_\_\_\_\_ (date), and intends to offer equal benefits when said agreement expires.

**III. NON-DISCRIMINATION** (check appropriate box)

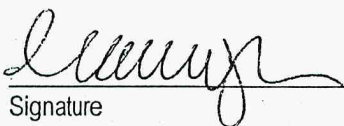
- ☐ Finding(s) of discrimination have been issued against Contractor within the past year by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. Please see attached sheet of paper explaining the outcome(s) or remedy for the discrimination.
- ☒ No finding of discrimination has been issued in the past year against the Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other entity.

**IV. EMPLOYEE JURY SERVICE** (check one or more boxes)

*Contractors with original or amended contracts in excess of \$100,000 must have and adhere to a written policy that provides its employees living in San Mateo County up to five days regular pay for actual jury service in the County.*

- ☒ Contractor complies with the County's Employee Jury Service Ordinance.
- ☐ Contractor does not comply with the County's Employee Jury Service Ordinance.
- ☐ Contractor is exempt from this requirement because:
- ☐ the contract is for \$100,000 or less.
  - ☐ Contractor is a party to a collective bargaining agreement that began on \_\_\_\_\_ (date) and expires on \_\_\_\_\_ (date), and intends to comply when the collective bargaining agreement expires.

**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

7-18-07  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title



**CONTRACT INSURANCE APPROVAL**

DATE: June 12, 2007  
TO: Faiza Steele FAX: 363-4864 PONY: HRD 163  
FROM: Aimee Wong  
PHONE: x2033 FAX: 573-2116 PONY: HLT-312

The following is to be completed by the department before submission to Risk Management:

CONTRACTOR NAME: Center to Promote Healthcare Access

DOES THE CONTRACTOR TRAVEL AS A PART OF THE CONTRACT SERVICES? No

NUMBER OF EMPLOYEES WORKING FOR CONTRACTOR: 17

DUTIES TO BE PERFORMED BY CONTRACTOR FOR COUNTY: The Center will provide all One-e-App system maintenance services including maintaining a production and testing technical environment to host the One-e-App application, maintaining a telecommunications infrastructure, providing technical support such as a user help desk, bugs fixes, server hardware and software maintenance, and monitoring and reviewing system performance. The One-e-App system is the tool used by all Application Assistants in the County to screen and assist individuals in applying for health coverage programs including Medi-Cal, Healthy Families, Healthy Kids, WELL, and the Discounted Health Care Program.

The following will be completed by Risk Management:

INSURANCE COVERAGE:	Amount	Approve	Waive	Modify
Comprehensive General Liability	\$1ml.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Motor Vehicle Liability		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Professional Liability		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Workers' Compensation	Satisfactory	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS/COMMENTS:

Faiza Steele  
Risk Management Analyst

6/14/07  
Date

<b>ACORD CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 07/19/2007
PRODUCER (415)863-1111      FAX (415)546-2147 Cal Intellisurance Insurance Brokerage 400 Oyster Point Blvd Ste 417 San Francisco, CA 94080		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED The Center to Promote Health Care Access 1333 Broadway #1020 Oakland, CA 94612		
		INSURERS AFFORDING COVERAGE
		NAIC #
		INSURER A: CNA
		INSURER B: Virginia Surety
		INSURER C: E.L.M
		INSURER D:
		INSURER E:

#### COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	2084715317	03/21/2007	03/21/2008	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$ 10,000
					PERSONAL & ADV INJURY \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE \$ 4,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG \$ 4,000,000
A	AUTOMOBILE LIABILITY	2084715317	03/21/2007	03/21/2008	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> HIRER AUTOS				
	<input checked="" type="checkbox"/> NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC \$
					AUTO ONLY: AGG \$
A	EXCESS/UMBRELLA LIABILITY	2084718816	03/21/2007	03/21/2008	EACH OCCURRENCE \$ 4,000,000
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$ 4,000,000
	<input type="checkbox"/> DEDUCTIBLE				\$
	<input checked="" type="checkbox"/> RETENTION \$ 10,000				\$
					\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WEN1003295-01	03/24/2007	03/24/2008	WC STATUTORY LIMITS \$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
					E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	OTHER ERRORS & Omissions	EMC110711	03/21/2007	03/21/2008	Aggregate \$1,000,000
					Each Claim \$1,000,000
					Deductible \$20,000

#### DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate holder is First Named Insured.  
 Please contact Intellisurance Insurance Services at 800-948-4923 to confirm this policy is active and the following certificate of insurance is legally binding.

#### CERTIFICATE HOLDER

The Center to Promote Health Care Access  
 1333 Broadway #1020  
 Oakland, CA 94612

#### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE  
 Erica Mignogna



## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

# Request for Taxpayer Identification Number and Certification

Give form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return)

**The Center to Promote HealthCare Access, Inc.**

Business name, if different from above

Check appropriate box: ☐ Individual/  
Sole proprietor

☒ Corporation

☐ Partnership

☐ Other

**Nonprofit**

☒ Exempt from backup  
withholding

Address (number, street, and apt. or suite no.)

**1333 Broadway Suite 1020**

City, state, and ZIP code

**Oakland, CA 94612**

Requester's name and address (optional)

List account number(s) here (optional)

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

| | | + | + | | |

or

Employer identification number

5 | 9 | 3 | 8 | 3 | 1 | 9 | 6 | 6

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign  
Here

Signature of  
U.S. person

Date **5-23-07**

## Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,



