

MEMORANDUM OF UNDERSTANDING

Between

San Bernardino County

Department of Behavioral Health

and

“X” County

Mental Health Plan

for

Reimbursement of Local Match for Specialty Mental Health Services for Youth Placed Out of County

Date of Execution to June 30, 2030

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, San Bernardino County Department of Behavioral Health (DBH) hereinafter referred to as “Mental Health Plan – San Bernardino (MHP-SB)”, and “X” County Health Care Agency, hereinafter referred to as “Mental Health Plan – X (MHP – X)” are separate entities; and

WHEREAS, either party may be the County of Jurisdiction – Mental Health Plan (COJ-MHP) [i.e., the MHP responsible for the provision and/or facilitation of Specialty Mental Health Services (SMHS)] or the County of Residence – Mental Health Plan (COR-MHP) (i.e., the county into which a youth has been placed); and

WHEREAS, both MHP-SB and MHP-X have agreed to facilitate Specialty Mental Health Services (SMHS) to youth placed into their respective County through established providers; and

WHEREAS, both MHP-SB and MHP-X have agreed, when they represent the COJ-MHP, to provide reimbursement for the local cost of SMHS incurred by the COR-MHP; and

WHEREAS, this the purpose of this Memorandum of Understanding (MOU) is intended to meet the expectations of Assembly Bill (AB) 1051 and Welfare and Institutions Code (WIC) Section 14717.25(c)(2); and

WHEREAS, this MOU only applies when the youth is placed in one of the following: Community Treatment Facility (CTF), Group Home (GH), Children’s Crisis Residential Program (CCRP), or Short-Term Residential Treatment Program (STRTP) **and** the residential agency has an established contract for SMHS with the COR-MHP.

NOW, THEREFORE, MHP-SB and MHP-X mutually agree to the following terms and conditions:

TABLE OF CONTENTS

I.	PURPOSE.....	3
II.	DEFINITIONS.....	3
III.	COJ GENERAL RESPONSIBILITIES.....	8
IV.	COR GENERAL RESPONSIBILITIES.....	9
V.	MUTUAL RESPONSIBILITIES.....	9
VI.	FISCAL PROVISIONS.....	10
VII.	RIGHT TO MONITOR.....	10
VIII.	TERM.....	11
IX.	EARLY TERMINATION.....	11
X.	GENERAL PROVISIONS.....	12
XI.	INDEMIFICATION AND INSURANCE.....	13
XII.	CONFIDENTIALITY.....	13
XIII.	NOTICES.....	14
XIV.	GOVERNING LAW AND VENUE.....	14
XV.	ASSIGNMENT.....	14
XVI.	LEGALITY AND SEVERABILITY.....	14
XVII.	CONCLUSION.....	14

I. PURPOSE

The purpose of this MOU is to establish the responsibility, process, and timely reimbursement between the COJ-MHP and COR-MHP to ensure that SMHS are provided and funded when youth are placed out of the County of Jurisdiction (COJ) and in a CTF, GH, or STRTP located in the County of Residence (COR) by the COJ, in accordance with WIC Sections 14717.2, 14717.25, and 14717.26 for foster children (as defined in WIC Section 14717.2(a)). The processes established through this MOU only apply when the CTF, GH, or STRTP have an established contract with the COR-MHP.

II. DEFINITIONS

- A. Assembly Bill 1051 (AB1051) – A bill signed into law by Governor Brown in October 2015 that is designed to structure the current foster care system and ensure that youth in foster care have their day-to-day physical, mental, and emotional needs met.
- B. Authorization for release of protected Health Information – A Health Insurance Portability and Accountability Act (HIPAA) compliant authorization form, signed by the client or client's legal representative, authorizing DBH to release the client's information to a designated recipient. This form must be completed thoroughly with specified records to be shared, a designated time frame and expiration date, as well as a signature by the DBH client or his/her legal representative. If the form is signed by a legal representative, proof from the court system designating legal representation must accompany the authorization.
- C. California Code of Regulations (CCR) – The codification of the general and permanent rules and regulations announced in the California Regulatory Notice Register by California state agencies under authority from primary legislation in the California Codes.
- D. Centralized Child Intensive Case Management Services (CCICMS) – The DBH unit that provides contract monitoring and assistance to specialty children's programs and contractors.
- E. Children and Family Services (CFS) – The Human Services Department that provides family-centered programs and services designed to ensure safe, permanent, nurturing families for the County's children while strengthening and attempting to preserve the family unit. CFS protects children from intentional physical or mental injury, sexual abuse, exploitation, or neglect by persons responsible for a child's health or welfare in accordance with California Welfare and Institutions Code (WIC) § 300. CFS strives towards goals of reducing risks to children, improving parenting skills and strengthening social support networks for families.
- F. Children and Youth Collaborative Services (CYCS) – The programs in which DBH collaborates with other County agencies and community-based providers to meet the mental health needs of children/youth connected to these agencies. CYCS is comprised of three (3) distinct coordinating service branches: CCICMS, Juvenile Court Behavioral Health Services (JCBHS) and the centralized Children's Administrative Unit.

- G. Children's Residential Intensive Services (ChRIS) – A DBH contracted program designed to serve foster youth placed at specific STRTPs by incorporating EPSDT Medi-Cal specialty mental health services, Mental Health Service Act (MHSA) Funded Full-Service Partnership (FSP) services, and similar activities funded through CFS for youth placed in the group homes.
- H. Continuum of Care Reform – Draws together a series of existing and new reforms to the child welfare services program designed out of an understanding that children who must live apart from their biological parents do best when they are cared for in committed nurturing family homes. The ultimate goal is to maintain a stable permanent family.
- I. County of Jurisdiction – Mental Health Plan (COJ-MHP) – The County of Jurisdiction – Mental Health Plan (COJ-MHP) is the County Mental, or Behavioral, Health Plan contracted with the Department of Health Care Services for the provision of mental health services connected to the California County which established the youth's Medi-Cal eligibility. The COJ-MHP is the county from which a placing agency placed a youth into residential care.
- J. County of Residence – Mental Health Plan (COR-MHP) – The County of Residence – Mental Health Plan (COR-MHP) is the County Mental, or Behavioral, Health Plan contracted with the Department of Health Care Services for the provision of mental health services connected California County into which a youth has been placed into residential care.
- K. Department of Behavioral Health (DBH) – DBH, under state law, provides mental health, substance use disorder, and prevention services to County residents. In order to maintain a continuum of care, DBH operates, or contracts for the provision of twenty-four (24) hour care, day treatment, outpatient services, case management, and crisis and referral services. Community services are provided in all major County metropolitan areas and are readily accessible to most County residents. Additionally, DBH assists individuals utilizing a Wellness, Recovery and Resilience approach to help the individual to live a healthy, satisfying, and hopeful life despite limitation and/or continuing effects caused by his/her mental illness and/or substance abuse in the least restrictive setting possible.
- L. Department of Health Care Services (DHCS) – The California Department of Health Care Services Division is responsible for: providing leadership for local county mental health departments; evaluation and monitoring of public mental health programs; administration of federal funds for mental health programs and services; care and treatment of people with mental illness; and oversight of Mental Health Services Act service implementation.
- M. Dependent – A person up to and including the day prior to his or her twenty-first (21st) birthday, who is a dependent child or ward of the juvenile court pursuant to Welfare and Institution Code sections 360, 366.26 or 728(d).
- N. Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT) Medi-Cal – A federally-mandated Medicaid option that requires states to provide screening, diagnostic and treatment services to eligible Medi-Cal dependents under age twenty-one (21). DBH administers the program through clinics and

contract providers which provide services to children and youth covered under Medi-Cal to ascertain and treat physical and mental defects.

EPSDT differs from CCR, Title 9, Chapter 11, Section 1830-205 (a)(1) (A – R) for Medical Necessity by permitting a broader definition and inclusion of diagnosed mental illness that is not limited to targeted population criteria established in the Welfare and Institutions Code § 5600.3 for seriously emotionally disturbed children and adolescents. Children and youth are eligible to receive EPSDT services if they have criteria which meet the Medi-Cal Medical Necessity included in the individual diagnosis (in order for the agency to receive reimbursement for EPSDT Medi-Cal specialty mental health services), their condition would not be responsive to physical healthcare-based treatment, and the service will correct or ameliorate the diagnosed mental illness.

- O. Health Insurance Portability and Accountability Act (HIPAA) – A federal law designed to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.
- P. Individually Identifiable Health Information (IIHI) – A subset of health information, including demographic information collected from an individual that (1) is created or received by a health care provider, health plan, employer, or health care clearinghouse; (2) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and (3) identifies the individual, or with respect to which there is reasonable basis to believe the information can be used to identify the individual.
- Q. Medical Necessity – For individuals under 21 years of age, a service is “medically necessary” or a “medical necessity” if the service meets the standards set forth in Section 1396d(r)(5) or Title 42 of the United States Code. This section requires provision of Medicaid-coverable services necessary to correct or ameliorate a mental illness or condition discovered by a screening service, whether or not such services are covered under the State Plan. Federal guidance from the Centers for Medicare & Medicaid Services (CMS) makes it clear that mental health services need not be curative or restorative to ameliorate a mental health condition. Services that sustain, support, improve, or make more tolerable a mental health condition are considered to ameliorate the mental health condition are this medically necessary and covered as EPSDT services. Services provided to a beneficiary must be medically necessary and clinically appropriate to address the beneficiary’s presenting condition (42 C.F.R. §§ 456.5 and 440.230(b)).

DHCS Behavioral Health Information Notice No. 21-073 provides additional specifics about beneficiaries under 21 years of age needing to meet either of the following criteria, (1) or (2) below:

1. The beneficiary has a condition placing them at high risk for a mental health disorder due to experience of trauma evidenced by any of the

following: scoring in the high-risk range under a trauma screening tool approved by DHCS, involvement in the child welfare system, juvenile justice involved, or experiencing homelessness as defined in BHIN 21-073.

OR

2. The beneficiary meets both of the following requirements in (a) and (b), below:
 - a. The beneficiary has at least one of the following:
 - i. A significant impairment.
 - ii. A reasonable probability of significant deterioration in an important area of life functioning.
 - iii. A reasonable probability of not progressing developmentally as appropriate.
 - iv. A need for specialty mental health services, regardless of presence of impairment, that are not included within the mental health benefits that a Medi-Cal managed care plan is required to provide.
 - b. The beneficiary's condition as described in subparagraph (2) above is due to one of the following:
 - i. A diagnosed mental health disorder, according to the criteria of the current editions of the Diagnostic and Statistical Manual of Mental Disorders and the International Statistical Classification of Diseases and Related Health Problems.
 - ii. A suspected mental health disorder that has not yet been diagnosed.
 - iii. Significant trauma placing the beneficiary at risk of a future mental health condition, based on the assessment of a licensed mental health professional.

R. Mental Health Plan (MHP) – An entity contracting with the State Department of Mental Health to provide specialty mental health services to enrolled beneficiaries under Chapter 7, commencing with Section 14000, or Chapter 8, commencing with Section 14200, of Division 9, Part 3 of the Welfare and Institutions Code; in this instance, the MHP would be the Department of Behavioral Health or “X” County.

S. Mental Health Services Act (MHSA) – Proposition 63, passed in November 2004, provides funding for planned programs operated by the county MHP.

T. Memorandum of Understanding (MOU) – A document that describes the broad outlines of an agreement that two (2) or more parties have reached.

U. Personally Identifiable Information (PII) – PII is information that can be used alone or in conjunction with other personal or identifying information, which is linked or linkable to a specific individual. This includes name, social security

number, date of birth, address, driver license, photo identification, and other identifying numbers (e.g., case number, client index number, myAvatar or SIMON number/medical record number, etc.).

- V. Program Activities and Services – Activities and services which are incorporated within a residential program, as conjointly defined by a MHP and the placing agency. These include, but are not limited to:
1. Family Search and Engagement: Service Provider’s work to identify and provide placement and other supports for youth by identifying and engaging the youth’s family members.
 2. School Connections: Efforts to ensure rapid and ongoing access to appropriate schooling, including strong collaborative efforts.
 3. Group Activities: Appropriate group activities which are beneficial for all enrolled youth.
 4. Enrichment Activities: Highly individualized activities tailored to develop the youth’s identity, self-esteem, and efficacy.
- W. Protected Health Information (PHI) – PHI is individually identifiable health information held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper or oral. Individually identifiable information is information, including demographic data, that relates to the individual’s past, present or future physical or mental health or condition; the provision of health care to the individual; or the past, present, or future payment for the provision of health care to the individual, and identifies the individual or for which there is reasonable basis to believe it can be used to identify the individual. PHI excludes individually identifiable health information in education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; in records described at 20 U.S.C. 1232g(a)(4)(B)(iv); in employment records held by a covered entity in its role as employer; and regarding a person who has been deceased for more than fifty (50) years.
- X. Seriously Emotionally Disturbed (SED) – Children or adolescents who have a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or development disorder, which results in behavior inappropriate to the child’s age according to expected development norms. Members of this target population shall meet one or more of the following criteria: (A) As a result of the mental disorder the child has substantial impairment in at least two (2) of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either of the following occurs (i) the child is at risk of removal from the home or has already been removed from the home; or (ii) The mental disorder and impairment have been present for more than six (6) months or are likely to continue for more than one (1) year without treatment. (B) The child displays one of the following: psychotic features, risk of suicide or risk of violence due to a mental disorder. (C) The child has been assessed pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code and determined to have an emotional

disturbance, as defined in paragraph (4) of subdivision (c) of Section 300.8 of Title 34 of the Code of Federal Regulations.

- Y. Short-Term Residential Treatment Program (STRTP) – A residential facility licensed by the State of California Department of Social Services that is operated by a public agency or private organization that provides short-term, specialized, and intensive treatment, including core services, 24-hour services and supervision.
- Z. Specialty Mental Health Services (SMHS) – Services may include evaluation of community functioning, short-term psychotherapy, crisis intervention, psychosocial rehabilitation, psychoeducation intervention, job retention services, Intensive Care Coordination, Intensive Home Based Services, and mental health case management to ensure that the MOU allows for appropriate accommodations, activities and services for the participant.
- AA. Ward – A child who is under the jurisdiction of County Juvenile Court pursuant to Welfare and Institutions Code (WIC) Section 602 and is under the supervision of Probation.
- BB. Welfare and Institutions Code (WIC) – A compilation of the legal codes in California that establish programs and services designed to provide protection, support or care of children/youth. The purpose of these codes is to provide protective services to the fullest extent deemed necessary by the Juvenile Court, Probation Department or other public agencies designated by the Board of Supervisors to perform the duties prescribed.

III. COUNTY OF JURISDICTION - GENERAL RESPONSIBILITIES

The following are general responsibilities of the COJ-MHP :

- A. The COJ-MHP shall reimburse the COR-MHP for non-State General Fund (non-SGF) local match [i.e., Intergovernmental Transfer (IGT)] as indicated on the DHCS Payment and Explanation of Benefits file (835 file), which represents costs incurred for the provision of SMHS related services to the Medi-Cal eligible foster child or youth under 21 years of age.
- B. The COJ-MHP shall appoint a liaison to receive information related to the foster child or youth receiving SMHS at the COR-MHP's GH, CTF, CCRP or STRTP.
- C. The COJ-MHP liaison may coordinate with the COR-MHP liaison if there are difficulties experienced with arranging care with GH, CTF, CCRP or STRTP.
- D. The COJ-MHP shall establish the coordination of care and reimbursement process for COJ-MHP to pay the COR-MHP when the youth is placed into a CTF, GH, CCRP, and/or STRTP that does not provide some or all SMHS services needed by the COJ-MHP youth.
- E. The COJ-MHP shall be responsible for the funding and provision of SMHS for qualifying members. When the presumptive transfer (meaning absent any expectations as established pursuant to Section 14717.1, the responsibility for providing or arranging for SMHS shall promptly transfer from the COJ-MHP to the COR-MHP), of Medi-Cal does not apply to a youth placed into a CTF, GH,

CCRP, or STRTP, the COJ-MHP maintains this responsibility. However, when COJ-MHP is not able to meet this responsibility through either an existing contract or establishing a new contract with the CTF, GH, CCRP or STRTP then the COR-MHP shall meet this responsibility pursuant to the terms of this MOU. Specifically, when the CTF, GH, CCRP or STRTP has an established contract with the COR-MHP for the provision of the required SMHS, there is no expectation that the COR-MHP will be obligated to establish a new contract with a placement solely because a member from COJ-MHP was placed into the CTF, GH, CCRP, or STRTP in the COR. For providers with an existing contract, the COR-MHP shall process the SMHS Medi-Cal billings, pay the provider, and then invoice COJ-MHP for the costs of local match as indicated within the 835 file as IGT.

IV. COUNTY OF RESIDENCE - GENERAL RESPONSIBILITIES

The following are general responsibilities of the COR-MHP:

- A. The COR-MHP shall appoint a liaison to assist, as needed, in communications with COJ-MHP and need for information related to SMHS services provided by the COR-MHP.
- B. The COR-MHP shall coordinate SMHS with contracted GH, CTF, CCRP or STRTP per standards of the COR-MHP.
- C. The COR-MHP shall coordinate with COJ-MHP whenever SMHS are required that are not provided by the primary placement.
- D. If the COJ-MHP has difficulties obtaining any clinical information from the placement, the COR-MHP shall coordinate with the contracted SMHS provider to provide clinical documentation from the client's clinical record, as requested.
- E. The COR-MHP shall complete invoices for payment and forward to COJ-MHP on a quarterly basis following services rendered for all Medi-Cal eligible services provided by the COR-MHP for SMHS reimbursement. The only eligible expense for reimbursement is the non-SGF share of local match (i.e., IGT), as indicated on the 835 file for approved services only, incurred by the COR-MHP. No other administrative or miscellaneous expenses shall be reimbursed by the COJ-MHP. All administrative or miscellaneous expenses shall be the responsibility of the COR-MHP.

V. MUTUAL RESPONSIBILITIES

The following are mutual responsibilities of both COJ-MHP and COR-MHP :

- A. COJ-MHP and COR-MHP shall establish mutually satisfactory methods for exchanges of such information as may be necessary in order that each party may perform its duties and functions under this MOU in accordance with State and Federal privacy laws and appropriate procedures to ensure all information is safeguarded from improper disclosure in accordance with applicable State and Federal laws and regulations, such as obtaining an authorization to release protected health information.
- B. COJ-MHP and COR-MHP shall establish mutually satisfactory methods for problem resolution at the lowest possible level as the optimum, with a procedure

to mobilize problem resolution up through DBH and MHP-X's mutual chain of command, as deemed necessary.

- C. COJ-MHP and COR-MHP shall develop and implement any procedures and forms necessary to administer and document program referral, participation, compliance, and effectiveness between them.
- D. COJ-MHP and COR-MHP shall develop any necessary procedures for resolving grievances including the specific steps a participant must follow and the time limits for resolution.
- E. COJ-MHP and COR-MHP shall observe all federal, state and county requirements, and applicable law concerning the confidentiality of behavioral health records. DBH and MHP-X, as required by applicable law, shall strictly maintain confidentiality of behavioral health records of participants.

VI. FISCAL PROVISIONS

- A. When San Bernardino County is serving as the COJ-MHP, the maximum amount of reimbursement for SMHS for all County-to-County MOUs, collectively, for this purpose, shall not exceed the aggregate amount of \$14,500,000. Any funds received by San Bernardino County from a COJ-MHP will offset the utilized aggregate amount and shall make available the same amount in receipt for future payments to other COR-MHPs.
- B. After programmatic review and approval of a COR-MHP invoice, COJ-MHP shall reimburse COR-MHP, subject to the limitations and conditions specified in this MOU.
- C. COJ-MHP will reimburse COR-MHP for costs of local match as indicated in the 835 file as Intergovernmental Transfer (IGT). The current rates for each county may be located here: <https://www.dhcs.ca.gov/services/MH/Pages/medi-cal-behavioral-health-fee-schedules-main.aspx>.
- D. Invoices for payment shall be completed and forwarded to COJ-MHP on a quarterly basis following services rendered for all Medi-Cal eligible services provided by the COR-MHP for SMHS reimbursement.
- E. Within 30 days, following receipt of a complete and correct invoice, COJ-MHP shall make payments to the COR-MHP. COR-MHP shall accept all payments from COJ-MHP via electronic funds transfer (EFT) directly deposited into a COR-MHP designated checking or other bank account.
- F. COR-MHP shall report to COJ-MHP within sixty (60) calendar days after which it has identified any overpayments.

VII. RIGHT TO MONITOR

- A. MHPs staff or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Inspector General, shall have the absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have the absolute right to monitor the performance of the CTF, GH, CCRP or STRTP program in the delivery of services provided under this MOU. Full cooperation shall be given by MHPs in any auditing or monitoring conducted.

- B. MHPs shall cooperate in the implementation, monitoring and evaluation of this MOU and comply with any and all reporting requirements established by this MOU.
- C. All records pertaining to service delivery and all fiscal, statistical and management books and records shall be available for examination and audit by MHPs Fiscal Services Staff, Federal, and State representatives for a period of seven (7) years after final payment under the MOU or until all pending County, State and Federal audits are completed, whichever is later. Records of MHPs which do not pertain to the services under this MOU shall not be subject to review or audit unless otherwise provided in this MOU. Technical program data shall be retained locally and made available upon MHPs reasonable advance written notice or turned over to each department upon request.
- D. MHPs shall provide all reasonable facilities and assistance for the safety and convenience of MHPs representative in the performance of duties. All inspections and evaluations shall be performed in such manner as will not unduly delay the work of MHPs.
- E. If a post MOU audit finds that funds reimbursed to DBH under this MOU were in excess of actual costs or in excess of claimed costs (depending upon State of California reimbursement/audit policies) of furnishing the services, or in excess of the State of California Schedule of Maximum Allowances, the difference shall be reimbursed on demand by MHPs using one of the following methods, which shall be at election of DBH:
 - 1. Payment of total.
 - 2. Payment on a monthly schedule of reimbursement.

VIII. TERM

This MOU is effective as of the Date of Execution through June 30, 2030, but may be terminated earlier in accordance with provisions of Section IX of this MOU.

IX. EARLY TERMINATION

- A. This MOU may be terminated without cause upon thirty (30) days written notice by either party.
- B. COR-MHP will only be reimbursed for costs and uncancelable obligations incurred prior to the date of termination. COR-MHP will not be reimbursed for costs incurred after the date of termination.
- C. If, during the term of this MOU, State and/or Federal funds appropriated for the purpose of this MOU are reduced or eliminated, either party may terminate this MOU with fourteen (14) days written notice to other party.

X. GENERAL PROVISIONS

- A. No waiver of any of the provisions of the MOU documents shall be effective unless it is made in a writing which refers to provisions so waived and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under any MOU document shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.
- B. Any alterations, variations, modifications, or waivers of provisions of the MOU, unless specifically allowed in the MOU, shall be valid only when they have been reduced to writing, duly signed, and approved by the Authorized Representatives of both parties as an amendment to this MOU. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
- C. When notices are required to be given pursuant to this MOU, the notices shall be in writing and mailed to the following respective addresses listed below.

Department of Behavioral Health
Attn.: Deputy Director, Youth Collaborative and Justice Involved Services
550 Hospitality Lane, 1st Floor
San Bernardino, CA 92415-0075

Other County
Attn: XXXX
Address Information

- D. Privacy and Security
 - 1. All parties shall adhere to any County applicable privacy-related policies pertaining to PII. DBH has a specific responsibility to comply with all applicable State and Federal regulations pertaining to privacy and security of client PHI and strictly maintain the confidentiality of behavioral health records, and COR-MHP shall assist DBH in upholding said confidentiality by applying safeguards as discussed herein. Regulations have been promulgated governing the privacy and security of individually identifiable health information (IIHI) PHI or electronic Protected Health Information (ePHI).
 - 2. In addition to the aforementioned protection of IIHI, PHI and e-PHI, all parties shall adhere to the protection of personally identifiable information (PII) and Medi-Cal PII. PII includes any information that can be used to search for or identify individuals such as but not limited to name, social security number or date of birth. Whereas Medi-Cal PII is the information that is directly obtained in the course of performing an administrative function on behalf of Medi-Cal, such as determining eligibility that can be used alone in conjunction with any other information to identify an individual.
 - 3. Reporting Improper Access, Use, or Disclosure of Unsecure PHI and PII

Upon discovery of any unauthorized use, access or disclosure of PHI or any other security incident with regards to PHI or PII, COR-MHP agree to report to DBH no later than one (1) business day upon the discovery of a potential breach. COR-MHP shall cooperate and provide information to DBH to assist with appropriate reporting requirements to the DBH Office of Compliance.

4. All parties shall ensure any DBH client PHI that is stored on its premises will be locked and secure in adherence to IIHI and PHI privacy requirements.

XI. INDEMNIFICATION AND INSURANCE

Each Party agrees to indemnify, defend (with counsel approved by the other) (“Indemnitee”) and hold harmless the other and their authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this MOU, but only to the extent actually caused by the negligent acts, errors or omissions of the indemnifying Party and its authorized officers, employees, agents, and volunteers, and for any costs or expenses incurred by Indemnitee on account of any claim except where such indemnification is prohibited by law.

If the Parties are determined to be comparatively at fault for any claim, action, loss, or damage which results from their respective obligations under this MOU, each Party shall indemnify the others to the extent of its comparative fault as determined in a legal action.

San Bernardino County and X COUNTY are authorized self-insured or partially self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Worker's Compensation and warrant that through their respective programs of self-insurance and insurance, they have adequate coverage or resources to protect against liabilities arising out of performance of the terms, conditions or obligations of this Agreement.

XII. CONFIDENTIALITY

Both Parties must comply with applicable State and Federal laws and regulations related to disclosure of information in their possession as relates to the subject of this MOU. The Parties agree that they will establish mutually satisfactory methods for the exchange of such information as may be necessary in order that each Party may perform its duties and functions under this MOU. The Parties will develop appropriate procedures to ensure all information is safeguarded from unauthorized disclosure in accordance with applicable State and Federal laws and regulations, and as referred to herein, related to disclosure of information in their possession as relates to the subject of this MOU.

Both Parties acknowledge that it is a “Covered Entity,” as defined in the Health and Insurance Portability and Accountability Act of 1996 (HIPAA) (45 C.F.R Parts 160 and 164). Each Party agrees that it will protect the confidentiality and security of Protected Health Information (as defined in HIPAA) in accordance with the Privacy and Security Rule in HIPAA (as set forth in 45 C.F.R Part 164) and all other applicable State of California privacy laws, including, but not limited to, California Welfare and Institutions Code Section 5328 through 5329, California Civil Code Section 56 et seq. To the extent the information subject to this MOU constitutes substance use disorder (SUD) information, the Parties agree that they will protect it in accordance with 42 C.F.R. Part 2

XIII. NOTICES

All written notices provided for in this MOU or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County
Department of Behavioral Health
550 Hospitality Lane, 1st Floor
San Bernardino, CA 92415-0075
Attn:

County of XXXX
Address

Notice shall be deemed communicated three (4) calendar days from the time of mailing if mailed as provided in this paragraph.

XIV. GOVERNING LAW AND VENUE

This MOU shall be governed by and construed according to the laws of the State of California. The parties agree that the venue of any action or claim brought by any party to this MOU will be the state or federal (if applicable) courts of California.

XV. ASSIGNMENT

This MOU is not assignable, in whole or in party, by either Party without the prior written consent of the other Party.

XVI. LEGALITY AND SEVERABILITY

The Parties' actions under the MOU shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this MOU are specifically made severable. If a provision of the MOU is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

XVII. CONCLUSION

- A. This MOU, consisting of fourteen (15) pages, is the full and complete document describing services to be rendered by COR-MHP including all covenants, conditions, and benefits.
- B. The signatures of the Parties affixed to this MOU affirm that they are duly authorized to commit and bind their respective departments to the terms and conditions set forth in this document.
- C. This MOU may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same MOU. The parties shall be entitled to sign and transmit an electronic signature of this MOU (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed MOU upon request.

[SIGNATURE PAGE FOLLOWS]

SAN BERNARDINO COUNTY
DEPARTMENT OF BEHAVIORAL HEALTH

Joshua Dugas, Acting Director

Dated: _____

**APPROVED AS TO LEGAL FORM
COUNTY COUNSEL**

By _____
Dawn Martin, Deputy County Counsel

(Print or type name of corporation, company, contractor, etc.)

By _____
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address _____
