

MEMORANDUM OF UNDERSTANDING

between

SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH

and

REDLANDS SUPPORTIVE HOUSING, L.P.

for

**CASE MANAGEMENT AND SPECIALTY MENTAL HEALTH AND SUBSTANCE USE DISORDER
SUPPORTIVE SERVICES AT LIBERTY LANE, A PERMANENT SUPPORTIVE HOUSING
DEVELOPMENT**

WHEREAS, the San Bernardino County (County) Department of Behavioral Health located at 303 E. Vanderbilt Way San Bernardino, CA 92415-0026, hereafter referred to as DBH, provides directly, or through contracted vendors, case management and Specialty Mental Health and Substance Use Disorder supportive services to tenants and their families in need of permanent housing in San Bernardino County; and

WHEREAS, Redlands Supportive Housing, L.P., hereafter referred to as OWNER, is proposing the development of eighty (80) units of affordable housing on southwest corner of Lugonia Avenue and Texas Street in Redlands, also known as Liberty Lane, nine (9) units of which are designated for DBH through the California Housing Finance Agency Local Government Special Needs Housing Program (SNHP) as permanent supportive housing for eligible adults with a diagnosis of mental illness as defined by the Mental Health Service Act (MHSA) program, experiencing homelessness. Sixty two (62) units will be restricted and subsidized by the Veterans Housing and Homelessness Prevention (VHHP) Program for veterans with an emphasis on housing for homeless and extremely low-income veterans.

WHEREAS, OWNER agrees to work with DBH in identifying eligible families to access subsidized units at Liberty Lane, and in return DBH will provide contracted field based case management, specialty mental health and co-occurring services to support the behavioral health needs of clients residing throughout nine (9) SNHP funded units at Liberty Lane. Participation in these services is on a voluntary basis; and

WHEREAS, OWNER and DBH desire an agreement for the purpose of defining their respective roles in both providing housing units, case management, Specialty Mental Health and Substance Use Disorder services, and other supportive services to the tenants of Liberty Lane in order to achieve and maintain an enriched quality of life; and

NOW THEREFORE, DBH and OWNER mutually agree to the following terms and conditions:

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ATTACHMENT I – BUSINESS ASSOCIATE AGREEMENT

I. PURPOSE

Liberty Lane, developed by Redlands Supportive Housing, L.P. (OWNER), is an affordable housing development for veteran individuals and veteran families who are homeless. Sixty two (62) of the units will be designated for the VHHP Program, which includes individuals and families who are experiencing homelessness, chronic homelessness or are homeless with a disability; nine (9) of which are SNHP designated units are for non-veterans administration benefits eligible individuals and families who are at risk of homelessness and/or chronically homeless and with a severe mental illness. The remaining seventeen (17) units will be affordable for families with a preference for veterans and one (1) unit is designated for the property manager. OWNER will work with DBH and San Bernardino County Coordinated Entry System (CES) in identifying eligible households to access all permanent supportive housing units. DBH will provide contracted field based case management, specialty mental health and co-occurring services to support the behavioral health needs of clients residing throughout nine (9) SNHP funded units at Liberty Lane. Participation in these services is on a voluntary basis.

DBH will provide resources and linkage for Substance Use Disorder and Mental Health Services to all non-veterans administration benefit eligible residents. DBH is the Medi-Cal Mental Health Plan for San Bernardino County, under contract with the California State Department of Health Care Services, to provide Specialty Mental Health and Substance Use Disorder Services to eligible Medi-Cal beneficiaries residing in San Bernardino County.

Referrals to Liberty Lane will be made in conjunction with CES. OWNER will make the final determination in regard to family's household size, income, preferences as applicable, and verify homeless status as determined by DBH and/or other homeless service providers. DBH will make the final determination in regard to family's appropriately qualified Vulnerability Index and Service Prioritization Decision Assistance Tool (VI-SPDAT) acuity score and ability to live independently. Interested homeless individuals will be referred to CES through 2-1-1.

DBH acknowledges that the OWNER is responsible for the reputation of the property and that its place in the community is vital to its success. As such, DBH and OWNER will work together to ensure tenants comply with all lease obligations to maintain a good relationship in the community to ensure we can continue to house the tenants and provide the much needed Specialty Mental Health and Substance Use Disorder supportive services at Liberty Lane.

It is understood that DBH and OWNER must work together as a team to effectively meet the needs of the tenants. This level of collaboration will require exceptional, thorough and timely communication between all parties. The parties to this agreement understand their separate and distinct responsibilities. DBH agrees in the performance of services, and OWNER agrees in the ownership of housing, that tenant and client rights are respected and complied with not only as a matter of principle, but as a matter of practice.

It is understood that DBH's role will be that of Specialty Mental Health and Substance Use Disorder supportive services provider and OWNER's role will be that of dealing with property and tenant issues.

DBH and OWNER agree to advise one another of matters in the referral and placement process and understand that each is bound by confidentiality standards regarding the exchange of client information. Appropriate releases will be secured when confidential client information needs to be shared.

II. DEFINITIONS

- A. At-Risk of Chronic Homelessness – Persons qualifying under this definition are persons who are at high-risk of long-term or intermittent homelessness, including:

1. Pursuant to Welfare and Institutions Code Section 5849.2, persons exiting institutionalized settings, such as jail or prison, hospitals, institutes of mental disease, nursing facilities, or long-term residential substance use disorder treatment, who were homeless prior to admission to the institutional setting;
2. Transition-Age Youth, 16 – 25 years of age, experiencing homelessness or with significant barriers to housing stability, including, but not limited to, one or more evictions or episodes of homelessness, and a history of foster care or involvement with the juvenile justice system; and others as set forth below;
3. Persons, including Transition-Age Youth, who, prior to entering into one of the facilities or types of institutional care, had a history of being homeless. Types of facilities include: a state hospital, hospital behavioral health unit, hospital emergency room, institute for mental disease, psychiatric health facility, mental health rehabilitation center, skilled nursing facility, developmental center, residential treatment program, residential care facility community crisis center, board and care facility, prison, parole, jail or juvenile detention facility, or foster care. Having a history of being homeless means, at a minimum, one or more episodes of homelessness in the 12 months prior to entering one of the facilities or types of institutional care listed herein. The CES, or other local system used to prioritize persons

At-risk of chronic homelessness for available assisted Units may impose longer time periods to satisfy the requirement that persons under this paragraph must have a history of being homeless.

- B. Authorization for Release of Protected Health Information - A Health Insurance Portability and Accountability Act compliant authorization 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 request.
- C. Barriers – Temporary or long term personal or other problems/issues that interfere with participation, employment, or job search.
- D. California Housing Finance Agency (CalHFA) Special Needs Housing Program (SNHP) CalHFA has operated the Local Government Special Needs Housing Program (SNHP) on behalf of jurisdictions throughout California. The SNHP allows local governments to use Mental Health Services Act (MHSA) and other local funds to provide financing for the development of permanent supportive rental housing that includes units dedicated for individuals with serious mental illness, and their families, who are homeless or at risk of homelessness.
- E. Chronically Homeless - As stated in the HUD Definition of Chronically Homeless final rule:
 1. A "homeless individual with a disability," as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:

An individual who can be diagnosed with one or more of the following conditions: substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act of 2000 (42

U.S.C. 15002)), post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability.

- i. Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
 - ii. Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months [one year] or on at least 4 separate occasions in the last 3 years, [where each homeless occasion was at least 15 days] as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;
 2. An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or
 3. A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.
- F. Confidentiality - The duty of anyone entrusted with protected health information or personally identifiable information to keep that information private.
- G. Coordinated Entry System (CES) – a centralized or coordinated process designed to coordinate program participant intake, assessment, and provision of referral. A centralized or coordinated assessment system covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool.
- H. Counseling – Advice and support that is given to people to help them experience relief from emotional distress and assist them in reaching their goals for a happier life.
1. Individual Counseling – One-on-one counseling.
 2. Group Counseling – Counseling in a group setting that offers opportunities to work on necessary issues.
- I. Department of Behavioral Health (DBH) – DBH is responsible for providing mental health and/or substance use disorder services to County tenants who are experiencing mental illness and/or substance use disorders. DBH provides treatment services and education for communities and tenants of the San Bernardino County through contracts with community based organizations and County operated clinics with the goal of promoting prevention, intervention, recovery, and resiliency for individuals and families.
- J. Episode – The period that a case is open. If a tenant exits treatment, the case is closed, and that episode ends. When a tenant returns, a new episode of treatment occurs with a new opening

date.

- K. Health Insurance Portability and Accountability Act of 1996 (HIPAA) – A federal law designed to provide privacy and provide information security standards to protect patients’ medical records and other health information provided to health plans, doctors, hospitals, and other health care providers (45 CFR Parts 160 and 164).
- L. Housing First – Evidence-based model that uses housing as a tool, rather than a reward as further defined in Welfare and Institutions Code Section 8255.
- M. Individual Services and Supports Plan – A comprehensive plan developed by service providers with the tenant to assist focusing on increasing the tenant responsibility for personal health, finding meaningful roles in the community and developing expanded social networks, including agreeing upon goals of managing behavioral health symptoms, and barriers to employment, education and housing stability needs.
- N. Landlord – An individual, firm, corporation, partnership, OWNER or similar entity; or a designated property manager that holds title to the housing that receives funding through rental subsidies on behalf of Liberty Lane.
- O. Mental Health Service Act (MHSA) - The MHSA was passed by California voters in 2004 and is funded by a one percent income tax on personal income in excess of \$1 million per year. It is designed to expand and transform California's behavioral health system to better serve individuals with, and at risk of, serious mental health issues, and their families. MHSA addresses a broad continuum of prevention, early intervention, and service needs and the necessary infrastructure, technology, and training elements that effectively support the public behavioral health system.
- P. Mental Health Service Activities – Mental health services are interventions designed to provide the maximum reduction of mental disability and restoration or maintenance of functioning consistent with the requirements for learning, development, independent living and enhanced self-sufficiency. Services shall be directed toward achieving the tenant’s goals/desired result/personal milestones.
 - 1. Assessment is a clinical analysis of the history and current status of the tenant’s mental, emotional, or behavioral disorder. Relevant cultural issues and history may be included where appropriate. Assessment may include diagnosis and the use of testing procedures.
 - 2. Case Management/Brokerage services are activities provided by program staff to access and monitor medical, educational, social, prevocational, rehabilitative, or other needed community services for eligible tenants.
 - 3. Crisis Intervention is a rapid emergency response service enabling the tenant to cope with a crisis, while maintaining his/her status as a functioning community member to the greatest extent possible. A crisis is an unplanned event that results in the tenant’s need for immediate service intervention.
 - 4. Medication Support Services include staff persons practicing within the scope of their professions by prescribing, administering, dispensing and/or monitoring of psychiatric medications or biologicals necessary to alleviate the symptoms of mental illness.
 - 5. Therapy is a service activity that may be delivered to a tenant or group of tenants, and

may include family therapy (when the tenant is present). Therapeutic interventions are consistent with the tenant's goals/desired results and may focus on symptom reduction as a means to improve functional impairments.

6. Rehabilitation is a service activity that may include any or all of the following:
 - i. Assistance in restoring or maintaining a tenant's or group of tenant's functional skills, daily living skills, social skills, grooming, personal hygiene skills, meal preparation skills, medication compliance, and support resources.
 - ii. Counseling of the tenant and/or family.
 - iii. Training in leisure activities needed to achieve the tenant's goals/desired results/personal milestones.
- Q. 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's license, photo identification, other identifying number (case number, client index number, Avatar number/medical record number, etc.).
- R. Subcontractor - An individual, company, firm, corporation, partnership, or other organization, not in the employment of or owned by Contractor who is performing services on behalf of Contractor under the Contract or under a separate contract with or on behalf of Contractor.
- S. Substance Use Disorder and Recovery Services (SUDRS) – provides a full range of substance use disorder treatment services for San Bernardino County communities and tenants. Services are available to all County tenants regardless of race, religion, gender, sexual orientation, or disability including chronic illness or HIV Services include timely and consistent assessment, defined and time-limited treatment that removes substance use as a barrier to employment, effective communication regarding participation in treatment, ongoing support for continued employment, and recovery from substance use disorders; and electronic tracking of all services.
- T. Supportive Housing – is defined as housing with no limit length of stay, that is occupied by the Target Population, and this is linked to onsite or offsite services that assists the Supportive Housing tenant in retaining the housing, improving his/her health status, and maximize his/her ability to live and when possible, work in the community.
- U. Target Population – means members of the target veteran population means any person who served in the active military, naval, or air service of the United States, or as a member of the National Guard who was called to and released from active duty or active service, for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within that 90-day period. This includes all Veterans regardless of discharge status. In addition, the SNHP regulated units target population identified in Welfare and Institutions Code Section 5600.3 (a) and (b) (adults or older adults) with a serious Mental Disorder or Seriously Emotionally Disturbed Children or Adolescent who are homeless or chronically homeless or at-risk of chronic homelessness. This includes persons with co-occurring mental and physical disabilities or co-occurring mental and substance use disorder.
- V. Veterans Housing and Homelessness Prevention (VHHP) Program – is administered by the California Department of Housing and Community Development (HCD). The VHHP Program

provides funding and tools that allow the Department to address affordability issues associated with creating housing units that are specifically set aside for veterans.

- W. Vulnerability Index and Service Prioritization Decision Assistance Tool (VI-SPDAT) – The VI-SPDAT is an evidence based assessment tool that is administered both to individuals and families to determine risk and prioritization when providing assistance to homeless and at-risk of homelessness persons.

III. OWNER SERVICE RESPONSIBILITIES

- A. OWNER of Liberty Lane will be responsible for asset management and overseeing the ongoing duties of repair, maintenance, management and operation of Liberty Lane through contracted property management.
- B. Maintain releases of information for each participant in the program to ensure open communication between DBH and OWNER.
- C. Provide housing services that include: screening eligibility and verification of applications, criminal background checks, orientation screenings, issuance of leases, initial and regular housing inspections, determination of rents, landlord responsibilities and responding to complaints and appeals regarding housing.
- D. Notify the applicant of acceptance into the program. Conduct orientation meetings to provide instructions to applicants on policies and to outline applicant's rental responsibilities.
- E. To the extent permitted by law, facilitate monthly case conference meetings with DBH and service providers to discuss identification of barriers to productive treatment, mutual problem solving, and future planning.
- F. Immediately notify DBH Office of Compliance of any suspected or actual breach of confidential information.
- G. Provide work space and a phone line for the DBH Case Manager at agreed upon OWNER office locations.
- H. Independent of this MOU, OWNER will continue to provide services to eligible families.
- I. Comply with all provisions of this MOU and ATTACHMENT I – Business Associate Agreement.

IV. OWNER GENERAL RESPONSIBILITIES

- A. Without the prior written consent of DBH, this MOU is not assignable by OWNER either in whole or in part.
- B. OWNER agrees not to enter into any subcontracting agreements for work contemplated under the MOU without first obtaining written approval from the DBH Director or his/her designee. Any subcontractor shall be subject to the same provisions as OWNER in addition to all contract provisions as required by County. OWNER shall be fully responsible for the performance of any subcontractor.
- C. OWNER shall adhere to mutually developed grievance procedures with regard to tenant satisfaction, and in respect of the grievance procedures clearly defined in its Housing Services Administrative Plan, in accordance with Department of Housing and Urban Development(s) Code of Federal Regulations. OWNER shall provide a system, approved by DBH, through which recipients of service will have the opportunity to express and have considered their views and

complaints regarding the delivery of services. The procedure must be in writing and posted in clear view of all tenants.

V. DBH SUPPORTIVE SERVICE PROVIDER RESPONSIBILITIES FOR SNHP REGULATED UNITS

- A. Provide final determination concerning tenant or individual appropriately qualified VI-SPDAT acuity score and ability to live independently prior to admission.
- B. Complete the Adult Needs and Strengths Assessment at intake, every six months and at discharge.
- C. Provide contracted field based case management, specialty mental health and co-occurring services to support the behavioral health needs of clients residing throughout nine (9) SNHP funded units at Liberty Lane. Participation in these services is on a voluntary basis, to Liberty Lane tenants that are experiencing an identified situation or crisis that jeopardizes the stability of their residential housing. DBH will maximize the onsite presence of DBH or contracted vendor staff as is possible. DBH or contracted vendor staff will provide 24-hour support to tenant with onsite and remote support.

Based on the need, DBH will provide behavioral health and case management services to assist in identifying and removing barriers to tenants successfully becoming employed, housed or educated to the level needed to achieve self-sufficiency. The length of on-site behavioral health and case management services depends on the tenant needs. Tenants will, as part of their recovery plan, obtain DBH services from a clinic or other DBH program. Tenant will continue to have access to onsite case management services after they transition from on-site services to clinic-based services.

- D. Ensure tenant receives appropriate behavioral health services and other services as needed and as outlined in the County's Supportive Services Plan, either by direct service from a County clinic/program, referral to a contracted community based organization or through linkages to other social services. Services shall include, but are not limited to:
 - 1. Mental Health Services and/or Treatment
 - 2. Substance Use Disorder Services and/or Treatment, including Services for Co-Occurring Disorders
 - 3. Crisis Stabilization
 - 4. Inpatient Psychiatric Hospitalization
 - 5. Crisis Residential Treatment
 - 6. Case Management, including linkage to all health care including physical care
 - 7. Peer Support Activities
 - 8. Benefits Counseling and Advocacy such as Medi-Cal and/or SSI benefits
 - 9. Skills Building, including basic housing retention skills
 - 10. Recreational and Social Activities
 - 11. Linkages to Educational Services
 - 12. Employment Services
 - 13. Other Services as needed

- E. Ensure tenant receives behavioral health services for any underlying issues related to chronic homelessness as determined on a case-by-case basis by DBH staff.
- F. Accept referrals from OWNER for conflict resolution, behavioral health evaluations and referral to appropriate mental health and substance use service providers.
- G. Develop an Individual Services and Supports Plan for all program participants receiving services.
- H. Obtain a Health Insurance Portability and Accountability Act (HIPAA) compliant release of information for each referred tenant prior to any discussions with OWNER on tenant's progress in case Plan.
- I. Provide or arrange transportation on a case-by-case basis for tenant to attend appointments and utilize resources as outlined in the tenants' case plan.
- J. Provide contracted field based case management, specialty mental health and co-occurring services to support the behavioral health needs of clients residing throughout nine (9) SNHP funded units at Liberty Lane. Participation in these services is on a voluntary basis,, to all referred tenants.
 - 1. Frequent and on-going contact with each family, ranging from daily to as needed, depending on level of need and progress, via phone and/or in-person, to determine the effectiveness of services provided to participating tenant and family members, as determined by DBH staff.
 - 2. Assess the stability of the tenant's living situation, physical and emotional health and safety.
 - 3. Assess progress toward goals and make necessary changes to improve tenant's success in meeting these goals.
 - 4. Provide appropriate referrals and linkage for services needed to assist the tenant.
 - 5. Monitor each tenant's progress toward making the necessary changes to achieve stability in housing and overall community functioning.
 - 6. Participate in case coordination meetings with the OWNER.
 - 7. Make every effort to engage tenant who are not making adequate progress.
- K. Ensure case management of all participants is maintained with all required forms and documentation. DBH shall maintain individual medical records.
- L. Maintain a quality assurance process to ensure timely and appropriate assessment and treatment of tenants.
- M. Provide reports, as needed, to OWNER that include the following:
 - 1. The total number of participants served through the program,
 - 2. The total number of participants who discontinued the program,
 - 3. Participate in outcome data research request with tenant's informed consent in accordance with privacy laws and regulations.
- N. Provide direct management of DBH contracted vendor, co-located at the OWNER facility, if applicable.

- O. Provide the necessary equipment for the DBH employees including a computer, in order to complete job functions.
- P. Independent of this MOU, DBH will continue to provide services to eligible tenants, as needed.

VI. MUTUAL RESPONSIBILITIES

- A. These three evidence-based approaches will be used by DBH and OWNER to provide housing and Specialty Mental Health and Substance Use Disorder supportive services to Liberty Lane tenant:
 - 1. Housing First - a philosophy that homelessness can be most efficiently ended by providing someone with access to safe, decent and affordable housing. The five key principles are:
 - i. Immediate access to permanent housing with no readiness requirements
 - ii. Tenant choice and self-determination
 - iii. Recovery orientation
 - iv. Individualized and client driven supports
 - v. Social and community integration

Research has demonstrated that this approach is effective in promoting housing stability, particularly among people who have been homeless for long periods of time and have serious psychiatric disabilities, substance use disorders and/or other disabilities.
 - 2. Harm Reduction - Similar to Housing First, the Harm Reduction philosophy prioritizes housing stability among persons who have experienced homelessness and who may be facing disabilities. Although recovery from mental health and substance use disorders is always the goal, harm reduction acknowledges that persons may be at different places along the continuum of behavior change. Harm reduction focuses on meeting tenants where they are at and assisting them to set and achieve goals for themselves. In this process a trusting relationship is established with the provider. Tenants are also encouraged to explore obstacles toward their goals in an open and non-judgmental atmosphere where they can contemplate costs and benefits of receiving services addressing their special needs, so that staff does not alienate tenants or cause them to begin a dishonest game of hiding their drug use, psychiatric symptoms, etc. Like any other tenant, tenants receiving services using this philosophy must still pay rent and comply with the terms of their lease.
 - 3. Motivational Interviewing - exploring and resolving ambivalence and centers on motivational processes within the individual that facilitate change. Key principles include:
 - i. Express and Show Empathy toward Client
 - ii. Support and Develop Discrepancy
 - iii. Deal with Resistance
 - iv. Support Self-Efficacy
 - v. Developing Autonomy
- B. DBH and OWNER will work collaboratively with United States Veterans Initiative (U.S. VETS). U.S. VETS as the lead service provider for HUD-VASH eligible veterans, DBH as the service provider for non-VASH eligible veterans will meet at least monthly to collaborate and coordinate

services.

- C. DBH and OWNER agree 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 agreement; and appropriate procedures to ensure all information is safeguarded from improper disclosure in accordance with applicable State and Federal laws and regulations.
- D. DBH and OWNER agree they will 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 OWNER's mutual chain of command, as deemed necessary.
- E. DBH and OWNER agree to develop and implement procedures, surveys and forms necessary to administer and document program referral, participation, compliance, and effectiveness.
- F. DBH and OWNER agree they will collaborate in providing In-Service Training to staff services offered under this MOU.
- G. DBH shall cooperate with OWNER in the implementation, monitoring and evaluation of this MOU and comply with any and all reporting requirements established by this MOU and/or VHHP.

DBH and OWNER agree to collaborate on Data Collection and Performance Outcome Requirements related to DBH FSP services. DBH shall comply with all local, State, and Federal regulations regarding local, State, and Federal Performance Outcomes measurement requirements and participate in the outcomes measurement process, as required by the State and/or DBH.

On an annual basis, DBH shall submit the data listed below for each of its VHHP Assisted Units. The County shall work with each Project's property manager and lead service provider to gather the data.

The data may be, but is not required to be, gathered from the local Homeless Management Information System (HMIS).

The data shall be submitted in electronic format on a form provided by the Department. DBH, the property manager and the lead service provider shall work together to resolve any data quality concerns to the best of their ability prior to submission of the data to the California Department.

The data below shall be submitted to the Department no later than September 30 of each year for the previous state fiscal year of activity (July 1-June 30) and shall include all of the following information for each Project:

- 1. Project location, services, and number of VHHP Assisted Units, total Units assisted by other government programs, and total non-Assisted Units;
- 2. Project occupancy restrictions;
- 3. Number of individuals and households served;
- 4. Homeless status, veteran status (the number of tenants who served on active duty in the armed forces of the United States for tenants over age 18), and mental health status. No information on specific mental health diagnoses will be collected;
- 5. Average Project vacancy rate during the reporting period (12 month average).

VII. FISCAL PROVISIONS

This is a non-financial MOU.

VIII. TERM

This MOU will commence upon its execution and will continue for a period of twenty (20) years, terminating February 7, 2042. This MOU may be terminated earlier in accordance with provisions of the EARLY TERMINATION Section.

IX. EARLY TERMINATION

This MOU may be terminated without cause upon thirty (30) days written notice by either party. The OWNER is authorized to exercise OWNER rights with respect to any termination of this MOU. The DBH Director, or his/her appointed designee, has authority to terminate this MOU on behalf of DBH.

If, during the term of this MOU, State and/or Federal funds appropriated for the purposes of this MOU are reduced or eliminated, DBH may immediately terminate this MOU upon written notice to OWNER.

X. INDEMNIFICATION

The OWNER agrees to indemnify, defend (with counsel reasonably approved by the County) and hold harmless the County and its authorized officers, employees, agents, contract vender, and volunteers from any and all claims, actions, losses, damages, and or liability arising out of this MOU from any cause whatsoever, including the acts, errors or omissions of the OWNER and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The OWNER's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

XI. 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.

XII. CONCLUSION

- A. This MOU, consisting of fourteen (14) pages and Attachments, are the full and complete document describing services to be rendered by DBH and OWNER 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 parties to the terms and conditions set forth in this document.

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.

SAN BERNARDINO COUNTY

►
Curt Hagman, Chairman, Board of Supervisors

Dated: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
of San Bernardino County

By _____
Deputy

REDLANDS SUPPORTIVE HOUSING, L.P.

By ►
(Authorized signature - sign in blue ink)

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

Title _____
(Print or Type)

Dated: _____

Address _____

Approved as to Legal Form

►
Dawn Martin, Deputy County Counsel

Date _____

Reviewed by Contract Compliance

►
Natalie Kesssee, Contracts Manager

Date _____

Presented to BOS for Signature

►
Georgina Yoshioka, Interim Director

Date _____

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (Agreement) supplements and is made a part of the contract (Contract) by and between the San Bernardino County Department of Behavioral Health (hereinafter Covered Entity) and Redlands Supportive Housing, L.P. (hereinafter Business Associate). This Agreement is effective as of the effective date of the Contract.

RECITALS

WHEREAS, Covered Entity (CE) wishes to disclose certain information to Business Associate (BA) pursuant to the terms of the Contract, which may include Protected Health Information (PHI); and

WHEREAS, CE and BA intend to protect the privacy and provide for the security of the PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (HITECH Act), their implementing regulations, and other applicable laws; and

WHEREAS, The Privacy Rule and the Security Rule require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, sections 164.314, subdivision (a), 164.502, subdivision (e), and 164.504, subdivision (e) of the Code of Federal Regulations (C.F.R.) and contained in this Agreement; and

WHEREAS, Pursuant to HIPAA and the HITECH Act, BA shall fulfill the responsibilities of this Agreement by being in compliance with the applicable provisions of the HIPAA Standards for Privacy of PHI set forth at 45 C.F.R. sections 164.308 (Administrative Safeguards), 164.310 (Physical Safeguards), 164.312 (Technical Safeguards), 164.316 (Policies and Procedures and Documentation Requirements), and, 164.400, et seq. and 42 United States Code (U.S.C.) section 17932 (Breach Notification Rule), in the same manner as they apply to a CE under HIPAA;

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

I. Definitions

Unless otherwise specified herein, capitalized terms used in this Agreement shall have the same meanings as given in the Privacy Rule, the Security Rule, the Breach Notification Rule, and HITECH Act, as and when amended from time to time.

- a. Breach shall have the same meaning given to such term under the HIPAA Regulations [45 C.F.R. §164.402] and the HITECH Act [42 U.S.C. §§17921 et seq.], and as further described in California Civil Code section 1798.82.
- b. Business Associate (BA) shall have the same meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to 42 U.S.C. section 17921 and 45 C.F.R. section 160.103.
- c. Covered Entity (CE) shall have the same meaning given to such term as under the Privacy Rule and Security Rule, including, but not limited to 45 C.F.R. section 160.103.
- d. Designated Record Set shall have the same meaning given to such term under 45 C.F.R. section 164.501.
- e. Electronic Protected Health Information (ePHI) means PHI that is maintained in or transmitted by electronic media as defined in the Security Rule, 45 C.F.R. section 164.103.
- f. Individual shall have the same meaning given to such term under 45 C.F.R. section 160.103.

- g. Privacy Rule means the regulations promulgated under HIPAA by the United States Department of Health and Human Services (HHS) to protect the privacy of Protected Health Information, including, but not limited to, 45 C.F.R. Parts 160 and 164, subparts A and E.
- h. Protected Health Information (PHI) shall have the same meaning given to such term under 45 C.F.R. section 160.103, limited to the information received from, or created or received by Business Associate from or on behalf of, CE.
- i. Security Rule means the regulations promulgated under HIPAA by HHS to protect the security of ePHI, including, but not limited to, 45 C.F.R. Part 160 and 45 C.F.R. Part 164, subparts A and C.
- j. Unsecured PHI shall have the same meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act, including, but not limited to 42 U.S.C. section 17932, subdivision (h).

II. Obligations and Activities of BA

a. Permitted Uses and Disclosures

BA may disclose PHI: (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) for purposes of Treatment, Payment and Operations (TPO); (iv) as required by law; or (v) for Data Aggregation purposes for the Health Care Operations of CE. Prior to making any other disclosures, BA must obtain a written authorization from the Individual.

If BA discloses PHI to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such PHI will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the PHI, to the extent it has obtained knowledge of such breach. [42 U.S.C. section 17932; 45 C.F.R. sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)]

b. Prohibited Uses and Disclosures

- i. BA shall not use, access or further disclose PHI other than as permitted or required by this Agreement and as specified in the attached Contract or as required by law. Further, BA shall not use PHI in any manner that would constitute a violation of the Privacy Rule or the HITECH Act. BA shall disclose to its employees, subcontractors, agents, or other third parties, and request from CE, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder.
- ii. BA shall not use or disclose PHI for fundraising or marketing purposes.
- iii. BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. (42 U.S.C. section 17935(a) and 45 C.F.R. section 164.522(a)(1)(i)(A).)
- iv. BA shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of CE and as permitted by the HITECH Act (42 U.S.C. section 17935(d)(2); and 45 C.F.R. section 164.508); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to this Agreement.

c. Appropriate Safeguards

- i. BA shall implement appropriate safeguards to prevent the unauthorized use or disclosure of PHI, including, but not limited to, administrative, physical and technical safeguards that reasonably protect the confidentiality, integrity and availability of the PHI BA creates, receives, maintains, or transmits on behalf of the CE, in accordance with 45 C.F.R. sections 164.308, 164.310, 164.312 and 164.316. [45 C.F.R. sections 164.504(e)(2)(ii)(b) and 164.308(b).]

- ii. In accordance with 45 C.F.R. section 164.316, BA shall maintain reasonable and appropriate written policies and procedures for its privacy and security program in order to comply with the standards, implementation specifications, or any other requirements of the Privacy Rule and applicable provisions of the Security Rule.
- iii. BA shall provide appropriate training for its workforce on the requirements of the Privacy Rule and Security Rule as those regulations affect the proper handling, use confidentiality and disclosure of the CE's PHI.

Such training will include specific guidance relating to sanctions against workforce members who fail to comply with privacy and security policies and procedures and the obligations of the BA under this Agreement.

d. Subcontractors

BA shall enter into written agreements with agents and subcontractors to whom BA provides CE's PHI that impose the same restrictions and conditions on such agents and subcontractors that apply to BA with respect to such PHI, and that require compliance with all appropriate safeguards as found in this Agreement.

e. Reporting of Improper Access, Use or Disclosure or Breach

Every suspected and actual Breach shall be reported immediately, but no later than one (1) business day upon discovery, to CE's Office of Compliance, consistent with the regulations under HITECH Act. Upon discovery of a Breach or suspected Breach, BA shall complete the following actions:

- i. Provide CE's Office of Compliance with the following information to include but not limited to:
 - 1. Date the Breach or suspected Breach occurred;
 - 2. Date the Breach or suspected Breach was discovered;
 - 3. Number of staff, employees, subcontractors, agents or other third parties and the names and titles of each person allegedly involved;
 - 4. Number of potentially affected Individual(s) with contact information; and
 - 5. Description of how the Breach or suspected Breach allegedly occurred.
- ii. Conduct and document a risk assessment by investigating without unreasonable delay and in no case later than five (5) calendar days of discovery of the Breach or suspected Breach to determine the following:
 - 1. The nature and extent of the PHI involved, including the types of identifiers and likelihood of re-identification;
 - 2. The unauthorized person who had access to the PHI;
 - 3. Whether the PHI was actually acquired or viewed; and
 - 4. The extent to which the risk to PHI has been mitigated.
- iii. Provide a completed risk assessment and investigation documentation to CE's Office of Compliance within ten (10) calendar days of discovery of the Breach or suspected Breach with a determination as to whether a Breach has occurred. At the discretion of CE, additional information may be requested.
 - 1. If BA and CE agree that a Breach has not occurred, notification to Individual(s) is not required.
 - 2. If a Breach has occurred, notification to the Individual(s) is required and BA must provide CE with affected Individual(s) name and contact information so that CE can provide notification.

- iv. Make available to CE and governing State and Federal agencies in a time and manner designated by CE or governing State and Federal agencies, any policies, procedures, internal practices and records relating to a Breach or suspected Breach for the purposes of audit or should the CE reserve the right to conduct its own investigation and analysis.

f. Access to PHI

To the extent BA maintains a Designated Record Set on behalf of CE, BA shall make PHI maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule. If BA maintains ePHI, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act. If BA receives a request from an Individual for access to PHI, BA shall immediately forward such request to CE.

g. Amendment of PHI

If BA maintains a Designated Record Set on behalf of the CE, BA shall make any amendment(s) to PHI in a Designated Record Set that the CE directs or agrees to, pursuant to 45 C.F.R. section 164.526, or take other measures as necessary to satisfy CE's obligations under 45 C.F.R. section 164.526, in the time and manner designated by the CE.

h. Access to Records

BA shall make internal practices, books, and records, including policies and procedures, relating to the use, access and disclosure of PHI received from, or created or received by BA on behalf of, CE available to the Secretary of HHS, in a time and manner designated by the Secretary, for purposes of the Secretary determining CE's compliance with the Privacy Rule and Security Rule and patient confidentiality regulations. Any documentation provided to the Secretary shall also be provided to the CE upon request.

i. Accounting for Disclosures

BA, its agents and subcontractors shall document disclosures of PHI and information related to such disclosures as required by HIPAA. This requirement does not apply to disclosures made for purposes of TPO. BA shall provide an accounting of disclosures to CE or an Individual, in the time and manner designated by the CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the Individual's authorization, or a copy of the written request for disclosure.

j. Termination

CE may immediately terminate this agreement, and any related agreements, if CE determines that BA has breached a material term of this agreement. CE may, at its sole discretion, provide BA an opportunity to cure the breach or end the violation within the time specified by the CE.

k. Return of PHI

Upon termination of this Agreement, BA shall return all PHI required to be retained by the BA or its subcontractors, employees or agents on behalf of the CE. In the event the BA determines that returning the PHI is not feasible, the BA shall provide the CE with written notification of the conditions that make return not feasible. Additionally, the BA must follow established policies and procedures to ensure PHI is safeguarded and disposed of adequately in accordance with 45 C.F.R. section 164.310, and must submit to the CE a certification of destruction of PHI. For destruction of ePHI, the National Institute of Standards and Technology (NIST) guidelines must be followed. BA further agrees to extend any and all protections, limitations, and restrictions contained in this Agreement, to any PHI retained by BA or its subcontractors, employees or

agents after the termination of this Agreement, and to limit any further use, access or disclosures.

I. Breach by the CE

Pursuant to 42 U.S.C. section 17934, subdivision (b), if the BA is aware of any activity or practice by the CE that constitutes a material Breach or violation of the CE's obligations under this Agreement, the BA must take reasonable steps to address the Breach and/or end eliminate the continued violation, if the BA has the capability of mitigating said violation. If the BA is unsuccessful in eliminating the violation and the CE continues with non-compliant activity, the BA must terminate the Agreement (if feasible) and report the violation to the Secretary of HHS.

m. Mitigation

BA shall have procedures in place to mitigate, to the extent practicable, any harmful effect that is known to BA of a use, access or disclosure of PHI by BA, its agents or subcontractors in violation of the requirements of this Agreement.

n. Costs Associated to Breach

BA shall be responsible for reasonable costs associated with a Breach. Costs shall be based upon the required notification type as deemed appropriate and necessary by the CE and shall not be reimbursable under the Agreement at any time. CE shall determine the method to invoice the BA for said costs. Costs shall incur at the current rates and may include, but are not limited to the following:

- Postage;
- Alternative means of notice;
- Media notification; and
- Credit monitoring services.

o. Direct Liability

BA may be held directly liable under HIPAA for impermissible uses and disclosures of PHI; failure to provide breach notification to CE; failure to provide access to a copy of ePHI to CE or individual; failure to disclose PHI to the Secretary of HHS when investigating BA's compliance with HIPAA; failure to provide an accounting of disclosures; and, failure to enter into a business associate agreement with subcontractors.

p. Indemnification

BA agrees to indemnify, defend and hold harmless CE and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, penalties, injuries, costs and expenses (including costs for reasonable attorney fees) that are caused by or result from the acts or omissions of BA, its officers, employees, agents and subcontractors, with respect to the use, access, maintenance or disclosure of CE's PHI, including without limitation, any Breach of PHI or any expenses incurred by CE in providing required Breach notifications.

q. Judicial or Administrative Proceedings

CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the Privacy Rule, Security Rule or other security or privacy laws or (ii) a finding or stipulation is made in any administrative or civil proceeding in which the BA has been joined that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the Privacy Rule, Security Rule or other security or privacy laws.

r. Insurance

In addition to any general and/or professional liability insurance coverage required of BA under the Contract for services, BA shall provide appropriate liability insurance coverage during the

term of this Agreement to cover any and all claims, causes of action, and demands whatsoever made for loss, damage, or injury to any person arising from the breach of the security, privacy, or confidentiality obligations of BA, its agents or employees, under this Agreement and under HIPAA 45 C.F.R. Parts 160 and 164, Subparts A and E.

s. Assistance in Litigation or Administrative Proceedings

BA shall make itself, and any subcontractors, employees, or agents assisting BA in the performance of its obligations under the Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers, or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is a named adverse party.

III. Obligations of CE

- a. CE shall notify BA of any of the following, to the extent that such may affect BA's use, access, maintenance or disclosure of PHI:
 - i. Any limitation(s) in CE's notice of privacy practices in accordance with 45 C.F.R. section 164.520.
 - ii. Any changes in, or revocation of, permission by an individual to use, access or disclose PHI.
 - iii. Any restriction to the use, access or disclosure of PHI that CE has agreed to in accordance with 45 C.F.R. section 164.522.

IV. General Provisions

a. Remedies

BA agrees that CE shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which CE may have at law or in equity in the event of an unauthorized use, access or disclosure of PHI by BA or any agent or subcontractor of BA that received PHI from BA.

b. Ownership

The PHI shall be and remain the property of the CE. BA agrees that it acquires no title or rights to the PHI.

c. Regulatory References

A reference in this Agreement to a section in the Privacy Rule and Security Rule and patient confidentiality regulations means the section as in effect or as amended.

d. No Third-Party Beneficiaries

Nothing express or implied in the Contract or this Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

e. Amendment

The parties acknowledge that state and federal laws related to privacy and security of PHI are rapidly evolving and that amendment of the Contract or this Agreement may be required to ensure compliance with such developments. The parties shall negotiate in good faith to amend this Agreement when and as necessary to comply with applicable laws. If either party does not agree to so amend this Agreement within 30 days after receiving a request for amendment from the other, either party may terminate the Agreement upon written notice. To the extent an amendment to this Agreement is required by law and this Agreement has not been so amended to comply with the applicable law in a timely manner, the amendment required by law shall be deemed to be incorporated into this Agreement automatically and without further action

required by either of the parties. Subject to the foregoing, this Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed and agreed to by BA and CE.

f. Interpretation

Any ambiguity in this Agreement shall be resolved to permit CE to comply with the Privacy and Security Rules, the HITECH Act, and all applicable patient confidentiality regulations.

g. Compliance with State Law

In addition to HIPAA and all applicable HIPAA Regulations, BA acknowledges that BA and CE may have confidentiality and privacy obligations under State law, including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code §56, et seq. ("CMIA")). If any provisions of this Agreement or HIPAA Regulations or the HITECH Act conflict with CMIA or any other California State law regarding the degree of protection provided for PHI and patient medical records, then BA shall comply with the more restrictive requirements.

h. Survival

The respective rights and obligations and rights of CE and BA relating to protecting the confidentiality or a patient's PHI shall survive the termination of the Contract or this Agreement.