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**GRANT AGREEMENT**

*between*

**ORANGE COUNTY, FLORIDA**

*and*

**THE DEVEREUX FOUNDATION, INC.**

*doing business as*

**DEVEREUX ADVANCED BEHAVIORAL HEALTH FLORIDA**

*for the provision of*

**MOBILE CRISIS SERVICES AND 911 COMMUNICATION CENTER DIVERSION**

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**THIS GRANT AGREEMENT (“Agreement”)** is by and between **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, with a mailing address of 201 South Rosalind Avenue, Orlando, Florida, 32802-1393, on behalf of its Mental Health and Homelessness Division (the “**County**”), and **THE DEVEREUX FOUNDATION, INC. D/B/A DEVEREUX ADVANCED BEHAVIORAL HEALTH FLORIDA**, a Pennsylvania not for profit corporation with a principal address at 444 Devereux Drive, Villanova, Pennsylvania 19085 (the “**Agency**” or “**Devereux**”). The County and the Agency may be referred to individually as “party” or collectively as “parties.”

**RECITALS**

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

**WHEREAS**, the County collaborates with community partners and organizations to accomplish this goal; and

**WHEREAS**, the Agency is one of Florida’s most comprehensive child welfare and behavioral healthcare organizations, supporting children with mental health, intellectual and developmental disabilities, and behavioral health challenges, and their families; and

**WHEREAS**, two such programs that the Agency can offer are: (1) Mobile Crisis Services, in which a licensed therapist responds to calls to provide immediate on-site crisis stabilization and connects families to the services and support needed for long-term recovery, and (2) 911 Communication Center Diversion, in which a licensed clinician works with 911 dispatchers to assist persons experiencing a mental health crisis to reduce the need for a law enforcement response; and

**WHEREAS**, the County has determined that partnering with the Agency to ensure the provision of Mobile Crisis Services and 911 Communication Center Diversion to the Orange County community in accordance with the terms of this Agreement (the “**Program**”) is in the interest of the public health, safety, and welfare; and

**WHEREAS**, the parties desire to enter into this Agreement to establish the terms and conditions for the County’s support and the Agency’s provision of the Program.

**NOW THEREFORE**, in consideration of the mutual promises, covenants, and conditions set forth, the parties agree as follows:

**Section 1. Recitals.**

The above recitals are true and correct and form a material part of this Agreement.

**Section 2. Notices and Liaisons.**

A. **Notices.** Service of all notices under this Agreement shall be in writing and sent by certified or registered mail or courier service, postage prepaid, and addressed to the addresses set forth below until such addresses are changed by written notice. Notices sent by certified/registered mail or courier with signature receipt requested shall be deemed effective as of date of receipt.

**To the County:** Orange County Administrator  
Orange County Administration Building  
201 South Rosalind Avenue, 5th Floor  
Orlando, Florida 32801

**AND**

Orange County, Florida  
Community and Family Services Department  
Attention: Manager  
2001 East Michigan Street  
Orlando, Florida 32806

**To the Agency:** Devereux Advanced Behavioral Health Florida  
Orlando Campus  
5850 T.G. Lee Boulevard, Suite 400  
Orlando, Florida 32822

B. **Liaisons.** The Agency shall designate a contract liaison (the “**Agency Liaison**”) and shall provide the name and contact information of that Agency Liaison to the County Liaison. Any substitution of the Agency Liaison after one has been designated pursuant to this subsection shall be done by providing a written notice of such substitution pursuant to the “**Notices**” section of this Agreement. The County’s liaison (the “**County Liaison**”) during the performance of this Agreement shall be the Manager of the County’s Mental Health and Homelessness Division. The County reserves the right to substitute the County Liaison by providing written notice of such substitution pursuant to the “**Notices**” section of this Agreement.

**Section 3. Term, Grant Period, and Renewals.**

A. **Term of Agreement.** The term of this Agreement begins on October 1, 2023, (the “**Effective Date**”) and shall conclude on September 30, 2024 (“**Term**”).

B. **Grant Period.**

1. The Grant Period is the time during which the Agency may expend grant funds for the work or services authorized under this Agreement. The Agency may not expend grant funds for any work completed, or services rendered, outside of the Grant Period.
  2. The Grant Period for this Agreement is: **10/01/2023 to 09/30/2024**.
- C. **Renewal.** The Term and Grant Period may be renewed for up to four (4) additional one (1) year periods (each a “**Renewal Term**”) upon mutual written signed agreement of the parties. The County will notify the Agency of any intent to renew this Agreement no less than thirty (30) days prior to the Agreement’s termination.

#### **Section 4. Program Services.**

- A. The Agency shall implement the Program by providing the services further described in the *Scope of Services* attached to this Agreement as “**Exhibit A**” (the “**Services**”) and shall do so in a manner that is satisfactory to the County, in accordance with this Agreement, and compliant with applicable federal, state, and local laws, rules, and regulations.
- B. **Authority to Practice.** The Agency hereby represents and warrants that the Agency has and will continue to maintain all applicable licenses, certifications, and approvals required to meet Agency’s obligations under the *Scope of Services*, and that Agency will at all times conduct Agency’s business activities in a reputable manner. Proof of such applicable licenses, certifications, and approvals must be submitted to the County upon request. However, failure by the County to request such proof shall in no manner be construed to alleviate the Agency’s obligations pursuant to this paragraph.
- C. **Employees of the Agency.**
1. **Skillful Provision of Services.** All applicable Services provided pursuant to this Agreement shall be performed by the employees, volunteers, associates, or agents of the Agency (or of any subcontractor of the Agency) in a professional and skillful manner.
  2. **Employee Licensure.** Any employee, volunteer, associate, or agent of the Agency (or of any subcontractor of the Agency) whose performance under this Agreement requires licensure shall have such valid and active licensure, if required, for the full duration of the performance of applicable Services under this Agreement.
  3. **Background Screening.** The Agency shall ensure that all staff, employees, guests, invitees, third party providers, volunteers, and other individuals engaged in the provision of Services to children and other vulnerable persons, as defined in Section 435.02, Florida Statutes, under this Agreement completes all background screens required by Florida law and regulations published by the Florida Department of Children and Families, including Level II background screenings in accordance with Section 435.04, Florida Statutes. The Agency will make copies of the completed background screens for individuals performing Services under this Agreement available to the County upon request.

4. **Removal of Employees.** The County may require, in writing, that the Agency removes any employee, volunteer, associate, or agent of the Agency (or of any subcontractor of the Agency) that the County Liaison – using County Liaison’s sole discretion – deems to be incompetent, careless, or otherwise objectionable from performing work or services related to this Agreement. The County shall not be responsible for any costs related to such removal.
  5. **E-Verify Use and Registration Certification.** Pursuant to Section 448.095, Florida Statutes, the Agency must certify that the Agency is registered with, and uses, the E-Verify system to verify the work authorization status of all newly hired employees. The Agency must further certify that that the Agency does not employ, contract with, or subcontract with an unauthorized alien, and shall provide an affidavit affirming this prior to the effective date of this Agreement. These certifications shall be satisfied by the Agency’s execution of the *E-Verification Certification* attached to this Agreement as “**Exhibit C**”. Violation of Section 448.095, Florida Statutes, may result in the immediate termination of this Agreement pursuant to this Agreement’s “**Termination**” section.
- D. The Agency shall notify the County, in writing, if sufficient staff, facilities, or equipment necessary to deliver the agreed upon Services cannot be maintained. Failure to notify the County of any such deficiencies or to adequately provide the Services described in “**Exhibit A**” shall be considered a breach of this Agreement and may constitute grounds for termination in accordance with the “**Termination**” section of this Agreement.
- E. The County may request changes to the *Scope of Services*, including alterations, reductions, or additions to Services. Upon receipt by the Agency of the County’s notification of a contemplated change, the Agency shall (1) if requested by the County, provide an estimate for the increase or decrease in cost due to the County’s contemplated change, (2) notify the County of any estimated change in the Programs operations, and (3) advise the County in writing if the County contemplated change will affect the Agency’s ability to meet completion dates, schedules, or other deadlines described in this Agreement. No changes will become effective until a written amendment or change order has been issued and signed by each of the parties.

#### **Section 5. Funding and Budget.**

- A. This is a grant Agreement in which the County will provide funding to the Agency, and the Agency will use said funding to pay for allowable costs and expenditures as necessary to provide the Program and in accordance with the terms of this Agreement. The County has appropriated a total sum of **ONE MILLION THIRTY-EIGHT THOUSAND FIVE HUNDRED FIFTY-EIGHT DOLLARS AND SIXTY CENTS (\$1,038,558.60)** (“**Grant Funds**”) to be used by the Agency during the Grant Period for the purposes set forth in the *Scope of Services*. The Agency will return to the County any Grant Funds not spent or encumbered by the end of the Grant Period for the designated purposes set forth in the *Scope of Services*.
- B. Any increase to the Grant Funds shall require an amendment to this Agreement that must be approved by the County and Agency in writing and executed by both parties. Any expenditures made by the Agency in excess of the Grant Funds will be the sole responsibility of the Agency.

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- C. Grant Funds provided by the County to the Agency under this Agreement are solely to reimburse the Agency for the provision, coordination, brokering, or administration of permissible Services for the Program as contemplated in this Agreement. The use of Grant Funds for any Services other than those described in this Agreement and the *Scope of Services* attached to this Agreement as “**Exhibit A**” will be deemed a breach and may result in the termination of this Agreement at the County’s sole discretion.
- D. The Agency shall return any and all Grant Funds to the County received under this Agreement for Services provided to any individual with incomplete eligibility documentation or deemed ineligible for Services at the County’s sole discretion.
- E. The Agency acknowledges that any remaining or unspent Grant Funds awarded for Grant Period may not be carried over to any Renewal Term or Renewal Period if this Agreement is renewed or extended. The Agency will return to the County any Grant Funds not spent during the Grant Period within thirty (30) days of the expiration or termination of the Agreement or Grant Period.
- F. Any additional costs or expenses incurred by the Agency that exceed the Grant Funds limit established under this Agreement will be the sole responsibility of the Agency. No additional Grant Funds will be provided to the Agency by the County for any such costs or expenses.
- G. The County-approved *Budget* for the use of Grant Funds is attached to this Agreement as “**Exhibit B**” and shall be the basis for which the Agency uses the Grant Funds.
- H. Any changes to the *Budget* must be approved, in writing, by the County. The cost of any changes, modifications, change orders, and all other constructive changes to the *Budget* must be allowable, allocable, within the scope of the Program, and reasonable for the completion of the *Scope of Services* attached as “**Exhibit A.**” The County Liaison, may, in writing, approve any amendments to the *Budget* that are requested by the Agency so long as any such requested amendments do not increase the Grant Funds amount and are deemed by the County Liaison as being consistent with the *Scope of Services*. *Budget* amendments that are not authorized for approval by the County Liaison must be made by formal written amendment to this Agreement.

**Section 6. Payment Terms.**

- A. **Payment by Installment.** The County will pay the Agency the Grant Funds in twelve (12) equal, monthly installments of **EIGHTY-SIX THOUSAND FIVE HUNDRED FORTY-SIX DOLLARS AND FIFTY-FIVE CENTS (\$86,546.55)** in accordance with the terms of this Agreement.
- B. **Request for Payment.** In order to obtain payment, the Agency shall submit a monthly “**Request for Payment**” to the County. Each Request for Payment is due on the first business day of each month during the Grant Period. Under this Agreement, the first Request for Payment is due **October 2, 2023**. Failure to submit a timely Request for Payment may result in a delay of payment or in the County withholding or denying an installment payment, at the County’s sole discretion.

- C. **Local Government Prompt Payment Act.** The County shall make payments to the Agency pursuant to this Agreement and in accordance with the Local Government Prompt Payment Act, Section 218.70 et. seq, Florida Statutes.
- D. **Availability of Funding.** The source of funding for this Agreement is County general revenue funds. The Agency acknowledges that the County's performance and obligation to pay under this Agreement is contingent upon an annual appropriation for County's purpose by the Orange County Board of County Commissioners, or other specified funding source. Execution of this Agreement does not guarantee funding for Services in subsequent years of this Agreement if renewed.
- E. The County may withhold or deny payments to the Agency if the County has reason to believe, in the County's sole discretion, that the Agency has used or intends to use Grant Funds for:
1. Any goods or Services that do not fall within the *Scope of Services* attached as "**Exhibit A**";
  2. Any goods or Services that fall within the *Scope of Services*, but that such payment by the County would supplant currently available, or already budgeted, funding for those goods or Services; or
  3. Any goods or Services that fall within the attached *Scope of Services*, but that such payment can be made through a third-party program or insurance provider.
- F. The Agency shall not obligate, encumber, spend, or otherwise utilize Grant Funds provided pursuant to this Agreement for any activity or purpose not included in, or in conformance with, the *Scope of Services*.
- G. The Agency may not accept duplicate funding for any cost, position, service, or deliverable funded by this Agreement. Duplicative funding is defined as more than one hundred-percent (100%) payment from all funding sources for any cost, position, service, or deliverable. If duplicate funding is discovered, this Agreement may be suspended while the extent of the overpayment is determined, or may be terminated. Such suspension or termination may be initiated at the sole discretion of the County.
- H. Any costs or expenses incurred by the Agency that exceed the overall Grant Funds amount set forth in this Agreement, or which are incurred outside of the Grant Period, shall be the sole responsibility of the Agency.

#### **Section 7. Return of Funds.**

- A. **Unauthorized Expenditures.** The Agency shall reimburse the County for all unauthorized expenditures.
- B. **Payment(s) in Error.** The Agency shall return to the County any payments made to the Agency that were made in error or deemed in any manner fraudulent or inconsistent with the *Scope of Services* attached as "**Exhibit A**" ("**Payment(s) in Error**").
1. In the event that the Agency, or any outside accountant or auditor, determines that a Payment in Error was made, the Agency shall return to the County any

associated funds no later than thirty (30) business days from when the Agency became aware of such Payment in Error.

2. In the event that the County discovers a Payment in Error, the County shall notify the Agency and the Agency shall return any associated funds to the County no later than thirty (30) business days of the Agency's receipt of such notice.
- C. **Delay or Failure to Return Funds.** Should the Agency fail to reimburse the County for any Payment in Error or unexpended installment payment within the time designated, the County may respond with any number of the following actions:
1. Charge an interest rate as determined by the State of Florida, Chief Financial Officer, pursuant to Chapter 55, Florida Statutes, on the amount of the overpayment or outstanding balance thereof. Interest shall accrue from the date of the Agency's initial receipt of overpayment funds up to the date of reimbursement of said overpayment funds to the County;
  2. Withhold any or all future payments until the amount of such overpayment has been recovered by the County;
  3. Terminate this Agreement; or
  4. Bar the Agency from consideration for future County awards, grants, or agreements.

#### **Section 8. Financial and Progress Reporting.**

- A. **Financial Reports.** The Agency shall submit monthly "**Financial Reports**" to the County. Financial Reports shall be deemed delivered to the County when delivered in a form and with supporting documentation as approved in writing by the County Liaison.
1. Unless otherwise stated in the *Scope of Services*, which hereby overwrites the frequency and due date of Financial Reports noted in this provision if there is a conflict between the *Scope of Services* and this section, Financial Reports are due **monthly** to the County by the **15th day of the month subsequent to the provision of Services** for which the Agency is reporting.
  2. **Final Financial Report.** The final Financial Report shall be due to the County by the **15th of the month subsequent** to the expiration or termination of this Agreement. Failure to submit the final Financial Report may result in the Agency's debarment from consideration for future County awards, grants, or agreements.
  3. The Agency shall include the following information in each Financial Report:
    - a. An itemized description of each cost or expense incurred pursuant to this Agreement that was paid with Grant Funds; and
    - b. The amount of each cost or expense and the date the cost or expense was incurred.

4. The Agency shall maintain, and the County may require the Agency to submit, additional supporting documentation as further described for invoices in the Orange County Purchasing Manual including, but not limited to, the following:
    - a. A comprehensive log of all expenses made with an explanation of how such expenses were permitted eligible expenses pursuant to this Agreement;
    - b. Copies of all paid invoices or bills;
    - c. Copies of all relevant bank statements redacted to show only transactions related to this Agreement and the Grant Funds; and
    - d. Any other supporting documentation required by the County detailing expenses for which the Agency is paying with Grant Funds with evidence that said expenses are allowable pursuant to the terms of this Agreement.
  5. **Attestation.** The Agency shall attest to the County that all expenditures paid with Grant Funds were proper and in accordance with the terms and conditions of the approved *Budget*. All Financial Reports from the Agency to the County must include the following executed attestation:

**“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the governing Agreement. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise.”**
  6. The County reserves the right to withhold or deny future payment of Grant Funds if any Financial Report:
    - a. Is incomplete or fails to provide all supporting documentation as determined by the County Liaison;
    - b. Fails to be provided in a timely fashion as determined by the terms of this Agreement; or
    - c. Indicates expenditures that are not compliant with this Agreement, including the *Scope of Services* and the *Budget*.
- B. Progress Reports.** The Agency shall submit monthly “**Progress Reports**” to the County. Progress Reports shall be deemed delivered to the County when delivered in a form and with supporting documentation as approved in writing by the County Liaison.
1. The Agency shall submit, in writing, Progress Reports with the information described in the *Scope of Services* to the County on a monthly basis due by the **15th of the month subsequent** to the provision of Services for which the Agency is reporting.



2. At minimum, each Progress Report must detail the outputs, outcomes, and progress the Agency has made in accomplishing the objectives of the *Scope of Services* attached as “**Exhibit A.**” The County reserves the right to request any additional supporting documentation from the Agency as the County deems necessary for determining whether Services were provided in accordance with this Agreement.
3. The Agency shall retain documentation identifying the individual clients enrolled in the Program and the progress of each client as further described in the *Scope of Services*.
4. Failure to provide the required Progress Reports in accordance with this Section may necessitate the County’s withholding or denial of future payments of Grant Funds and shall be considered cause for termination by the County pursuant to the terms of termination contained in this Agreement.

**Section 9. Maintenance, Retention, and Access to Records.**

- A. The Agency, and its subcontractors (if any) that are providing Services, or otherwise performing, pursuant to this Agreement shall abide by the requirements of this Section.
- B. The Agency shall establish and utilize generally accepted accounting principles in the maintenance of all records relating to this Agreement. Such practices shall comply with the general acceptable accounting principles and shall fully and accurately reflect, track, and document the Agency’s financial activities with respect to the Grant Funds.
- C. The Agency shall maintain a financial management system which shall have the capacity to segregate direct costs from indirect costs; establish separate cost centers for each service category to capture allowable (reimbursable) costs; establish separate cost centers for each service category to capture unallowable costs and the value of donated goods and services, if applicable.
- D. The Agency shall be responsible for maintaining an acceptable recordkeeping system that organizes and summarizes transactions in a form that provides the basis to maintain adequate documentation to support all costs paid with Grant Funds under this Agreement.
- E. The Agency shall have a basic accounting system that identifies the total cost of the Agency's organization, and the Agency shall make full use of the Agency’s financial accounting system to separate costs into cost centers.
- F. The Agency shall be mindful in the establishment of cost centers in its accounting system so as to minimize adjustments and allow many expenses to be assigned directly to the appropriate cost center.
- G. Any cost analysis system shall involve cost cooperation between the fiscal and program staff.
- H. The Agency shall facilitate consultation and agreement among organization officials on the structure of general ledger accounts and treatment of each type of cost in order to facilitate appropriate allocation of costs.

- I. The Agency shall establish and maintain separate accounting records for the Agency's activities in meeting its obligations pursuant to this Agreement with sufficient documentation to identify the associated expenditures (e.g., detailed invoices, cancelled checks, payroll journals, bank statement reconciliations, etc.) and establish that such expenditures are allowable, necessary, and reasonable under this Agreement.
- J. The Agency shall furnish the County with any and all data needed for the purpose of monitoring, evaluation, auditing, and quality assurance. This data shall include information on the Services provided or work performed, and any other data that may be required by the County, in its sole discretion, to adequately evaluate the Agency's performance under this Agreement.
- K. All records that were created, utilized, or maintained for the purpose of fulfillment of the Agency's obligations pursuant to this Agreement, whether paper or electronic ("**Relevant Records**"), shall be retained by the respective record holder for a period of five (5) years after termination of this Agreement, including any extensions or renewals of this Agreement.
- L. In the event of litigation, claims, or audit findings, all Relevant Records shall be retained for a period of five (5) years after the resolution of any such event.
- M. The Agency shall permit the County, the Comptroller of Orange County (the "**Comptroller**"), or any of their authorized representatives to access, review, or reproduce any and all Relevant Records.
- N. The Agency shall ensure that the provisions of this Section are incorporated into any agreements into which Agency enters that are related to this Agreement and the Grant Funds.

**Section 10. Monitoring and Audit Requirements.**

- A. **Monitoring.** The Agency hereby acknowledges that the County has an obligation to monitor the Agency's programmatic and financial activities. By executing this Agreement, the Agency hereby agrees to permit the County, the Comptroller, or the designee of either, to perform such Program and financial monitoring periodically.
- B. **County and County Comptroller Audits.** The County, the Comptroller of Orange County (the "**Comptroller**"), or the respective designees of each party, shall periodically perform Program and financial monitoring.
- C. **Authorization to Audit.** The County, the Comptroller, or any of their authorized representatives shall have the right to audit Agency's:
  - 1. Use and disbursement of the Grant Funds;
  - 2. Services or Program delivery; and
  - 3. Compliance with the terms, conditions, and obligations set forth in this Agreement.
- D. **Letter of Findings.**

1. If, during a monitoring session or audit, the County, the Comptroller, or the designee of either, discovers any defect in the Agency's performance under this Agreement (whether programmatic, financial, or otherwise), a "**Letter of Findings**" will be provided to the Agency.
2. The Agency shall respond to any such Letter of Findings with a Corrective Action Plan and Implementation Schedule, as instructed by the County, the Comptroller, or the designee of either, within thirty (30) calendar days of the date of the Letter of Findings. Failure to submit a Corrective Action Plan and Implementation Schedule shall constitute a material breach and may result in termination of this Agreement.

**E. Submission of Audits and Audited Financial Statements.**

1. The Agency shall submit to the Comptroller and the County any and all auditor's reports received by the Agency related to its obligations under this Agreement within ten (10) business days of receipt.
2. A copy of the auditor's report, including any associated management letter, or any applicable audited financial statements, shall be forwarded to the County pursuant to the "**Notices**" section of this Agreement, with a copy provided to the Orange County Comptroller's Office at the following address:

**Orange County Comptroller's Office  
Finance and Accounting Department  
Attn: Grants Section P.O. Box 38  
Orlando, Florida 32802**

- F. Failure to comply with any requirements of this Section shall be deemed as a breach of this Agreement and may result in the withholding or denial of any requests for payment or reimbursement to the Agency.

**Section 11. Insurance.**

- A. The Agency agrees to maintain, on a primary basis, at all times throughout the duration of this Agreement, the following types of insurance coverage with limits and on forms (including endorsements) as described in this Section. All or part of the insurance required in this Section may be maintained through one or more programs of self-insurance. These requirements, as well as the County's review or acceptance of insurance maintained by the Agency, are not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by the Agency under this Agreement.
- B. The Agency shall require and ensure that each of its subcontractors/consultants providing Services under this Agreement (if any) procures and maintains until the completion of their respective Services, insurance of the types and to the limits sufficient to protect the interest of the County and the Agency.
- C. The Agency shall have in force the following insurance coverage, and will provide Certificates of Insurance to the County prior to commencing operations under this Agreement to verify such coverage:

1. **All Agencies:**

**Commercial General Liability** – The Agency shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than one million dollars (\$1,000,000) per occurrence. Agency further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insured. The General Aggregate limit either shall apply separately to this contract or shall be at least twice the required occurrence limit.

The Agency agrees to endorse the County as an Additional Insured with a CG 20 26 Additional Insured–Designated Person or Organization endorsement, or its equivalent, under Agency’s commercial general liability insurance program. The certificate holder and additional insured shall be listed in the name of Orange County, Florida.

2. **Agencies providing Services at County facilities:**

**Workers’ Compensation** – The Agency shall maintain coverage for its employees with statutory workers’ compensation limits and no less than one hundred thousand dollars (\$100,000) each incident of bodily injury or disease for Employer’s Liability. Said coverage shall include a waiver of subrogation in favor of the County if Services are being provided at County facilities. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis. Any Agency using an employee leasing arrangement shall complete a *Leased Employee Affidavit* as provided by Orange County’s Risk Management Division, 109 E Church Street, Suite 200, Orlando, Florida 32801.

**Business Automobile Liability** – The Agency shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of ISO form as filed for use in Florida or its equivalent, with limits of not less than five hundred thousand dollars (\$500,000) per accident. In the event the Agency does not own automobiles, the Agency shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

3. **Agencies providing Services to vulnerable populations:**

**Sexual Abuse and Molestation Coverage** with limits of not less than one hundred thousand dollars (\$100,000) per occurrence shall also be included for those programs that provide Services directly to Vulnerable Person(s). “Vulnerable Person(s)” are minors as defined in Section 1.01(13), Florida Statutes, or vulnerable adults as defined in Section 415.102, Florida Statutes.

4. **Agencies providing Services that are of a professional nature:**

**Professional Liability** with a limit of not less than one million dollars (\$1,000,000) per wrongful act or claim. For policies written on a claims-made basis, the Agency agrees to maintain a retroactive date prior to or equal to the effective date of this Agreement. In the event the policy is cancelled, non-renewed, switched to

occurrence form or any other event that triggers the right to purchase a Supplemental Extended Reporting Period (“**SERP**”) during the life of this Agreement the Agency agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the Agency of the obligation to provide replacement coverage.

5. **Agencies receiving funding in advance payments:**

**Fidelity & Employee Dishonesty Insurance.** The Agency shall present the following proof of insurance: Fidelity & Employee Dishonesty Insurance with a limit greater than or equal to the amount of any and all funds paid in advance. This insurance may be waived at the discretion of the County’s Risk Management Division if the Agency is a “state agency or subdivision” as defined by Section 768.28(2), Florida Statutes.

- D. Except for coverage provided under this Agreement that is maintained through a program of self-insurance carriers providing coverage required in this “**Insurance**” section must be authorized or eligible to conduct business in the State of Florida and must possess a current A.M. Best Financial Strength Rating of A-Class VIII.
- E. Any request for an exception to these insurance requirements must be submitted in writing to the County for approval.
- F. The Agency shall provide to the County current certificates of insurance evidencing all required coverage prior to execution and commencement of any operations/Services provided under this Agreement. In addition to the certificate(s) of insurance the Agency shall also provide copies of any applicable endorsements as required above.
- G. For continuing service contracts, renewal certificates shall be submitted upon request by either the County or its certificate management representative. The certificates shall clearly indicate that the Agency has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without thirty (30) calendar days prior written notice to the County. Certificates shall specifically reference the respective Agreement number. The certificate holder shall read:

**Orange County, Florida  
Attention: Risk Management Division  
109 East Church Street, Suite 200, Orlando, Florida 32801**

**Section 12. Indemnification, Sovereign Immunity, and Liability.**

- A. **Indemnification.** The Agency shall defend, indemnify, and hold harmless the County and its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys’ fees) arising from the Agency’s own negligent acts or omissions, or those negligent acts or omissions of the Agency’s officials and employees acting within the scope of their employment, or arising out of or resulting from the Agency’s negligent performance under this Agreement. The foregoing shall not constitute an agreement by either party to assume any liability of any kind for the acts, omissions, or negligence of the other party, its officers, officials, employees, agents, or contractors.

- B. **Sovereign Immunity.** Nothing contained in this Section, or in any part of this Agreement, shall constitute a waiver of the County's sovereign immunity provisions or protections pursuant to Section 768.28, Florida Statutes.
- C. **Liability.**
1. Unless otherwise explicitly stated in this Agreement, in no event shall either party be responsible to the other for any indirect damages, incidental damages, consequential damages, exemplary damages of any kind, lost goods, lost profits, lost business, or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty, or a breach of term of this Agreement.
  2. Without waiving any of the provisions or protections under this Agreement or pursuant to Florida law, under no circumstances shall the County be liable to the Agency under any contract, negligence, strict liability, or other legal or equitable theory for any amounts in excess of those limits per claim and per occurrence set forth for tort liability in Section 768.28 of the Florida Statutes, which limits are hereby made applicable to all manner of claims against the County related to this Agreement and are not confined to tort liability.

**Section 13. Protection of Persons and Property.**

- A. While working or performing Services on County property, the Agency shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of Agency's Services for this Agreement.
- B. The Agency shall take all reasonable precautions for the safety and protection of:
1. All employees and all persons whom the Agency suffers to be on County premises and other persons who may be affected thereby;
  2. All property, materials, and equipment on the premises under the care, custody or control of the Agency; and
  3. Other property at or surrounding the premises including trees, shrubs, lawns, walks, pavement, and roadways.
- C. The Agency agrees that the County does not guarantee the security of any equipment or personal property brought by the Agency, Agency's agents or employees onto any property and that the County shall in no way be liable for damage, destruction, theft or loss of any equipment and appurtenances regardless of the reason for such damage, destruction, theft or loss.
- D. The Agency shall comply with, and shall ensure that its contractors comply with, all applicable safety laws or ordinances, rules, regulations, standards and lawful orders from authority bearing on the safety of persons or property for their protection from damage, injury or loss. This includes but is not limited to the following:

1. Occupational Safety & Health Act (“OSHA”);
  2. National Institute for Safety and Health (“NIOSH”);
  3. National Fire Protection Association (“NFPA”); and
  4. Orange County Safety and Health Manual.
- E. In the performance of Services upon the occurrence of any emergency affecting the safety of persons or property, the Agency will act with reasonable care and discretion to prevent any threatened damage, injury or loss.
- F. **Prohibit Entry and Removal from Premises.** The County may, in County’s sole and absolute discretion, prohibit entry into County facilities or remove any Agency staff member, faculty, employee, or other Agency representative from the County’s premises at any time.

**Section 14. Independent Contractor and Third Parties.**

- A. **Independent Contractor.** The parties agree that nothing in this Agreement is intended or should be construed as creating or establishing the relationship of copartners between the parties, or as constituting the Agency as the agent, representative, or employee of the County for any purpose or in any manner whatsoever. The Agency is to be, and shall remain, an independent contractor with respect to all Services performed under this Agreement, and that any individuals hired, or performing Services or work, pursuant to this Agreement shall be considered to be the employee of the Agency for all purposes, including but not limited to for any worker’s compensation matters.
- B. **No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to, or in any manner be construed to, confer upon any person other than the parties, their respective successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

**Section 15. Confidentiality.**

- A. **Health Insurance Portability and Accountability Act (“HIPAA”).**
1. Under this Agreement, each party intends to limit its transmission of data to the other party that either:
    - a. Is not “**Protected Health Information,**” as defined in 45 CFR § 160.103; or
    - b. Has been “de-identified” in compliance with the HIPAA Safe Harbor Standard, 45 CFR § 164.514.
  2. Should the need for the transmission of Protected Health Information arise pursuant to this Agreement, the party transmitting that Protected Health Information shall, prior to such transmission, ensure that:

- a. The transmitting party has written authorization from each respective client or patient to share the Protected Health Information;
- b. All the applicable protections of the HIPAA Privacy and Security Rules found in 45 CFR Part 164 are properly followed; and
- c. The parties have executed a Business Associate Agreement, as applicable.

**B. Florida Information Protection Act (“FIPA”).**

- 1. Pursuant to Section 501.171(g)1., Florida Statutes, **“Personal Information”** means either of the following:
  - a. An individual’s first name or first initial and last name in combination with any one or more of the following data elements for that individual:
    - i. A social security number;
    - ii. A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;
    - iii. A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to an individual’s financial account;
    - iv. Any information regarding an individual’s medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or
    - v. An individual’s health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
  - b. A username or e-mail address, in combination with a password or security question and answer that would permit access to an online account.
- 2. The parties acknowledge that neither party intends that the other party maintain, store, or process personal information on the other party’s behalf; however, if, pursuant to this Agreement, the Agency is maintaining, storing, or processing personal information on behalf of the County, the Agency is the County’s “Third-Party Agent” under FIPA and hereby agrees to comply with all obligations for such “Third-Party Agents” as detailed in Section 501.171, Florida Statutes. These obligations include, but are not limited to:
  - a. Taking reasonable measures to protect and secure data in electronic form containing personal information; and



- b. Providing notice to the County in the event of a breach of security of the Agency's system as expeditiously as practicable, but no later than ten (10) calendar days following the determination of the breach of security or reason to believe the breach occurred.
3. The Agency shall be responsible and liable for all direct costs associated with any required notices, fines, or fees assessed against the County for any breach of Personal Information that is the direct fault of the Agency.

**C. Florida Trade Secret Protections.**

1. Pursuant to Section 815.045, Florida Statutes, "**Trade Secret Information**," as defined in Section 812.081, Florida Statutes, and as provided for in Section 815.04(3), Florida Statutes, is expressly confidential and exempt from the public records law because it is a felony to disclose such records.
2. If the *Scope of Services* attached to this Agreement as "**Exhibit A**" includes storing, collecting, reviewing, or accessing information related to business entities that could be considered Trade Secret Information, both parties hereby certify that each respective party will hold any such information confidential and will not release or disclose it to any third party without express, written permission from either: (a) the other party; or (b) the business entity in question.

**Section 16. Termination.**

- A. **Termination for Convenience.** Either party may terminate this Agreement at any time for any reason by providing a written thirty (30) calendar day notice to the other party. If this Agreement is terminated by the County for convenience, the Agency shall only retain Grant Funds for costs and expenses incurred as of the effective date of such termination; all other Grant Funds must be returned to the County. No other damages, fees, or costs may be assessed against the County for County's termination of this Agreement for convenience.
- B. **Termination for Cause.**
  1. **Immediate Termination.**
    - a. The County reserves the right to terminate this Agreement immediately, to be effectuated as of the Agency's receipt of written notice which may be hand-delivered or transmitted by electronic mail to the Agency Liaison. Notwithstanding the foregoing, the County, as a courtesy, will additionally provide the Agency with such notice in the manner provided in the "**Notices**" section of this Agreement.
    - b. Immediate Termination pursuant to this provision shall be permitted for any of the following reasons:
      - i. Any circumstance under which the County is no longer receiving funds to reimburse the Agency occurs;

- ii. The amount of funds needed to operate the Program meets or exceeds the amount of Grant Funds provided for in this Agreement;
    - iii. The Agency files bankruptcy or otherwise becomes insolvent;
    - iv. The Agency is determined to be ineligible to do business in the State of Florida;
    - v. If the Agency is a non-profit agency, loss of the Agency's non-profit status;
    - vi. If the County has a Business Associate Agreement with the Agency, the County has terminated that Business Associate Agreement for cause; or
    - vii. As otherwise expressly provided for in this Agreement.
  - 2. **Standard Termination for Cause.** The County may terminate this Agreement for cause upon providing a written notice to Agency within fourteen (14) calendar days of said notice of breach of contract and termination notice. Such termination for cause may be for any material breach of this Agreement, or if the County, using its sole discretion, determines that the Agency is unable to perform under this Agreement.
  - 3. **Opportunity to Cure.** Without creating an obligation to provide an opportunity to cure or accept the Agency's proposed cure if such an opportunity is provided, the County reserves the right to provide the Agency the opportunity to cure any stated breach. If the County provides such opportunity to cure, the County shall:
    - a. Provide the opportunity to cure as a part of the County's breach of contract and termination notice; and
    - b. Allot an appropriate deadline by which the Agency must provide its proposed cure to the County.
  - 4. **In the Event of Wrongful Termination for Cause.** If a court of competent jurisdiction determines that this Agreement was wrongfully terminated for cause, then the Agency's damages for such termination, if any, shall be the same as if the County terminated this Agreement for convenience.
- C. **In the Event of Termination.** After receipt of a notice of termination, except as otherwise directed, the Agency shall take all of the following actions:
- 1. Within thirty (30) calendar days, remit to the County any Grant Funds paid that have not yet been spent by the Agency;
  - 2. Stop working under this Agreement on the date of receipt of the notice of termination unless otherwise stated in such notice;

3. Place no further orders and enter into no further agreements to the extent that either relate to the performance of the work which was terminated and direct any subcontractors to do the same;
  4. Terminate all orders and subcontracts to the extent that they relate to the performance of the work, which was terminated;
  5. Finalize all necessary reports, invoices, and other documentation required under the terms of this Agreement up to the date of termination, up to and including the final invoice due at the end of the project without reimbursement beyond that due as of the date of termination for Services rendered to the termination date;
  6. Take any other actions as reasonably directed in writing by the County consistent with the Services; and
  7. If the *Scope of Services* attached as “**Exhibit A**” includes a provision of care to individuals, the Agency shall take any reasonable steps to, in good faith, assist the County in transferring care of such individuals to another organization, if necessary.
- D. **Payment in Event of Termination.** If this Agreement is terminated before performance is completed, the Agency shall only retain Grant Funds for the work or Services performed as of the date of termination. In the event the Agreement is terminated for cause, any Grant Funds owed to the County due to any overages paid to, or breach of contract by, the Agency shall be returned to the County by the Agency. No other damages, fees, or costs may be assessed against the County for County’s termination of the Agreement.
- E. **Force Majeure.**
1. The Agency shall not be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by explosion, war, embargo, government requirement, civil or military authority, pandemic and epidemics, act of God, or other similar causes beyond the Agency’s control so long as the Agency’s delay is not caused by the Agency’s own fault or negligence. Notwithstanding the foregoing, the Agency cannot claim *Force Majeure* under this provision for any emergency, exigency, or “Act of God” that existed on this Agreement’s Effective Date.
  2. If the Agency’s performance is delayed pursuant to this provision for a period exceeding seven (7) business days from the date the County receives required notice from the Agency, then the County shall have the right to terminate this Agreement thereafter and shall only be liable to the Agency for any work performed pursuant to this Agreement prior to the date of the County’s termination.
  3. No other damages, fees, or costs may be assessed against the County for its termination of this Agreement pursuant to this provision. Nothing in this provision shall prevent the County from terminating this Agreement for any purpose otherwise expressly stated in this Agreement.

**Section 17. Florida State Terms.**

- A. **Public Records.** Pursuant to Section 119.0701, Florida Statutes, the Agency shall:
- A. Keep and maintain public records required by the County to perform the service.
  - B. Upon request from the County, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the amount set by the County.
  - C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement's term and following completion of this Agreement if the Agency does not transfer the records to the County.
  - D. Upon completion, or termination, of this Agreement, transfer, at no cost, to the County all public records in possession of the Agency or keep and maintain public records required by the Agency to perform the service in accordance with Florida law.
  - E. If the Agency transfers all public records to the County upon completion of the Agreement, the Agency shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Agency keeps and maintains public records upon completion of this Agreement, the Agency shall meet all applicable requirements for retaining public records in accordance with applicable federal and Florida law.
  - F. All records stored electronically shall be provided to the County, upon request from the County, in a format that is compatible with the information technology systems of the County.

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

- B. **Scrutinized Companies.**
- A. By executing this Agreement, the Agency certifies that it is eligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes.
  - B. Specifically, by executing this Agreement, the Agency certifies that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, and that it is not engaged in a boycott of Israel.
  - C. Additionally, if this Agreement is for an amount of one million dollars (\$1,000,000) or more, by executing this Agreement, the Agency certifies that it is not:

- a. On the “Scrutinized Companies with Activities in Sudan List” or the “Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List,” created pursuant to Section 215.473, Florida Statutes; or
  - b. Engaged in business operations in Cuba or Syria.
- D. The County reserves the right to terminate this Agreement immediately should the Agency be found to:
- a. Have falsified its certification of eligibility to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or Services pursuant to Section 287.135, Florida Statutes; or
  - b. Have become ineligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or Services pursuant to Section 287.135, Florida Statutes, subsequent to entering into this Agreement with the County.
- E. If this Agreement is terminated by the County as provided in **Section 18, Paragraph B.4.a.** above, the County reserves the right to pursue any and all available legal remedies against the Agency, including but not limited to the remedies as described in Section 287.135, Florida Statutes. If this Agreement is terminated by the County as provided in **Section 18, Paragraph B.4.b.** above, the Agency shall be paid only for the funding-applicable work completed as of the date of the County’s termination.
- F. Unless explicitly stated in this Section, no other damages, fees, or costs may be assessed against the County for its termination of the Agreement pursuant to this Section.

### **Section 18. General Provisions.**

- A. **Assignments and Successors.** The parties deem the Services to be rendered pursuant to this Agreement to be personal in nature. Each party binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. Neither party shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other, which consent shall be in the sole determination of the party with the right to consent.
- B. **Attorneys’ Fees and Costs.** Unless otherwise expressly stated in this Agreement, the parties shall each bear their own costs, expert fees, attorneys’ fees, and other fees incurred in connection with this Agreement and any action or proceeding arising out of or relating to this Agreement (an “**Action**”).
- C. **Conflicts.** The Agency shall comply with all applicable local, state, and federal laws, regulations, executive orders, and the policies, procedures, and directives of the County. Should there be conflict between the various applicable laws and this Agreement, the most restrictive shall govern.

- D. **Construction and Representations.** Each party acknowledges that it has had the opportunity to be represented by counsel of such party's choice with respect to this Agreement. In view of the foregoing, and notwithstanding any otherwise applicable principles of construction or interpretation, this Agreement shall be deemed to have been drafted jointly by the parties and in the event of any ambiguity, shall not be construed or interpreted against the drafting party. Neither party has relied upon any representations or statements made by the other party to this Agreement which are not specifically set forth in this Agreement.
- E. **Counterparts and Electronic Transmission of Signatures.** This Agreement may be executed in counterparts, both of which shall be deemed an original and which taken together shall constitute one agreement. Any counterpart may be delivered by any party by electronic transmission of the full Agreement as executed by that party to the other party as mutually agreed upon by the parties, and delivery shall be effective and complete upon completion of such transmission.
- F. **Governing Law.** This Agreement shall be considered as having been entered into in the State of Florida, United States of America, and shall be construed and interpreted in accordance with the laws of that state.
- G. **Headings.** The headings or captions of sections or subsections used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.
- H. **Jury Waiver.** Each party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right that party does or might have to a trial by jury related to any Action.
- I. **Nondiscrimination.** The Agency shall, at no time during the provision of services funded through this Agreement, discriminate based on race, color, religion, national origin, sex, or sexual orientation. Both parties shall comply with any and all applicable federal, state, and local anti-discrimination laws, rules, and regulations.
- J. **Remedies.** No remedy conferred upon any party in this Agreement is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.
- K. **Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant, or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

- L. **Signatory.** Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform under this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.
- M. **Survivorship.** Those provisions which by their nature are intended to survive the expiration, cancellation, or termination of this Agreement, including, by way of example only, the indemnification and public records provisions, shall survive the expiration, cancellation, or termination of this Agreement.
- N. **Use of County and Agency Logos.** Both parties are prohibited from use of any and all of the other party's emblems, logos, or identifiers without written permission from that party. For more information about the use of the County's logos, refer to Section 2-3, Orange County Code.
- O. **Venue.** Each of the parties hereby irrevocably submits to the jurisdiction of any federal or state court of competent jurisdiction sitting in Orange County, Florida, regarding any Action, and further agrees that any such Action shall be heard and determined in such Florida federal or state court. Each party hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of any Action in Orange County, Florida.
- P. **Waiver.** No delay or failure on the part of any party to this Agreement to exercise any right or remedy accruing to such party upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment thereof, or preclude such party from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.
- Q. **Written Modification.** No modification of this Agreement shall be binding upon any party to this Agreement unless it is reduced to writing and is signed by a duly authorized representative of each party to this Agreement.

**Section 20. Attachments.**

The documents that are hereby incorporated by either reference or attachment and therefore form this Agreement are:

- A. This Agreement;
- B. **Exhibit A:** Scope of Services;
- C. **Exhibit B:** Budget;
- D. **Exhibit C:** E-Verification Certification; and
- E. **Attachment 1:** Business Associate Agreement.

**Section 21. Entire Agreement.**

This Agreement, and any documents incorporated in this Agreement, sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof. This Agreement supersedes any and all prior agreements, negotiations, correspondence,

**Contract No. Y23-2215**

undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this Agreement.

**[ SIGNATURES ON FOLLOWING PAGE ]**



Contract No. Y23-2215

IN WITNESS WHEREOF, the parties have signed and executed this Agreement on the dates indicated below.

ORANGE COUNTY, FLORIDA

By: The Board of County Commissioners

By: [Signature]

Carrie Mathes, Procurement Division Manager or

Zulay Millan, Procurement Division Assistant Manager

Date: 10-5-23

THE DEVEREUX FOUNDATION, INC.  
D/B/A DEVEREUX ADVANCED BEHAVIORAL HEALTH FLORIDA

DocuSigned by:  
Kelly Messer  
ID: 724E0000970400...

Signature

Kelly Messer

Printed Name

09/29/23

Date

Director of Finance

Official Title

STATE OF FLORIDA )

COUNTY OF Orange )

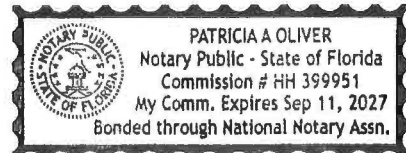
The foregoing instrument was acknowledged before me on this 29 day of September 2023, by Kelly Messer, in his or her official capacity as the Director of Finance of The Devereux Foundation, Inc. d/b/a Devereux Advanced Behavioral Health Florida.

[Signature]  
Signature Notary Public

Print, Type/Stamp Name of Notary

Personally Known

Produced Identification  
Type of Identification Produced: \_\_\_\_\_



## **EXHIBIT A SCOPE OF SERVICES**

The purpose of this Agreement is to provide the Agency with Grant Funds for the provision of two services: (I) Mobile Crisis Services; and (II) 911 Communication Center Diversion.

### **I. SERVICES: MOBILE CRISIS SERVICES.**

#### **A. Overview of Program.**

Since August 2015, Devereux, FL, hereinafter referred to as “The Agency”, has provided Mobile Crisis Services (MCS) for youth ages 0-17 experiencing a crisis in Orange County, Florida. Mobile Crisis Services are a component of a comprehensive service delivery system based on a System of Care Concept and Philosophy which refers to the publications by the Georgetown University Center for Child and Human Development, as may be amended or revised from time to time. A copy of which can be found at [SOC.brief\(georgetown.edu\)](http://SOC.brief(georgetown.edu)).

This system is being implemented by Orange County's Mental Health and Homeless Division in cooperation with the Youth Mental Health Commission, a community of providers and stakeholders in Orange County, Florida. The efforts of mobile response are interwoven with the statewide Florida Department of Children and Families initiative to ensure MCS is available in every county. This project will further sustain the capacity and quality of services to children and families exhibiting symptoms of a serious emotional disturbance. This is accomplished, in part, by diversifying the types of services available to the community, including MCS to youth and families experiencing a mental health crisis.

This service provides immediate, thorough, and effective assessment, referral and crisis intervention. MCS plays a vital role in helping to prevent psychiatric hospitalizations, arrests and out-of-home placements; supporting families, caregivers, schools and other child serving systems or agencies; and ensuring access to a community-based supports and services (i.e. case management, wraparound, Community Action Teams (CAT), etc.) for children, that will remain in place after the crisis. The ultimate outcome of the service is to keep children safe in the least restrictive environment.

#### **B. Specific Design of Service.** The Agency shall use this Agreement’s Grant Funds towards the Agency’s provision of the following services:

1. Provide MCS on-site, face-to-face in the community (family home, school, etc.) and shall include the following components:
  - a. Crisis counseling, intervention, and planning.
  - b. Assessment of co-occurring disorders
  - c. Linkage and referral
  - d. Short-term psychotherapy
  - e. Monitoring and follow-up
  - f. Evaluation and arrangement for inpatient hospitalization, as necessary
  - g. Telehealth may only be used in special circumstances as approved by the County.
  
2. Improve access to services by ensuring each child/youth attends one (1)

## Exhibit A Scope of Services

- appointment with an appropriate provider for follow up within thirty (30) days of the MCS response. The MCS clinician will ensure the child/youth has attended the follow up appointment PRIOR to closing the MCS case. If attendance at a follow up appointment is not feasible or warranted, the MCS clinician will document all attempts in the case record.
3. Ensure children/youth and their families with Limited English Proficiency have equal access to MCS by
    - a. employing bilingual staff in English/Spanish AND English/Creole,
    - b. utilizing certified language interpreter services for telephonic interpretation,
    - c. utilizing a certified translation company to translate all vital written materials (consents, release of information, etc.) for use in three languages (English, Spanish, and Creole).
  4. Comply with all of the National Culturally and Linguistically Appropriate Service (CLAS) Standards as defined by the U.S. Department of Health and Human services, a copy of which can be found at: <https://thinkculturalhealth.hhs.gov/clas/standards>
  5. Comply with all requirements and standards for the use of auxiliary aids and service plans, as established by the State of Florida, Department of Children and Families (DCF), to ensure accessibility to all programs, benefits, and services to persons with disabilities, such as deaf and hard of hearing, and foreign language interpreters for persons with limited English proficiency. Additional information can be found at <https://www2.myflfamilies.com/service-programs/individual-with-disability/providers/training.shtml>
  6. Maintain case files for each child/youth served following the standards required by the Agency, Chapter 491, Florida Statutes, and all other applicable laws, rules, and regulations for an electronic health record of mental health/substance abuse services. This includes compliance with all applicable laws, rules, accreditation standards, etc. and appropriate documentation for each MCS call (case notes, assessments, consents, etc.).
  7. Maintain availability for children/youth ages 0-17 and families in Orange County 24 hours per day, seven days per week and 365 days per year,
  8. Collaborate with Heart of Florida United Way and utilize 211 as the hotline number for MCS. Calls shall be answered by a live person 24 hours per day, 7 days per week, and 365 days per year. Roles and Responsibilities shall be documented via a subcontract or similar agreement with Heart of Florida United Way and will include payment to Heart of Florida United Way for an amount agreed to by the County for Heart of Florida United Way's staffing needs. The Agency shall obtain the County's approval of the Agency's subcontract with Heart of Florida United Way prior to said subcontract becoming effective.
  9. Respond to requests for MCS within one hour in Orange County, Florida, counted as the time of the initial call with 211 to the time of arrival by the MCS clinician on-site with the child.
  10. Maintain appropriate staffing levels including one (1) full-time Licensed Clinician (Program Manager) who is on-call to provide telephonic and face-to-face support when needed and initiate a Baker Act in those situations when the crisis cannot be safely resolved.
  11. Ensure all staff show competency in providing MCS upon hire and provide ongoing monitoring for their ability to formulate appropriate clinical dispositions.
  12. Provide clinical staff with at least forty (40) hours of training the initial year of hire

## Exhibit A Scope of Services

- in areas such as crisis resolution, verbal de-escalation, engagement of youth and families, the Baker Act, use of the Child Adolescent Needs and Strengths assessment, wraparound, trauma informed care, motivational interviewing, first episode psychosis and/or any other training deemed necessary by the vendor.
13. Utilize an assessment that includes a clinical narrative, a risk assessment, and a crisis plan along with scoring of applicable domains of the Child and Adolescent Needs and Strengths Assessment (CANS) to determine the level of need for follow-up care.
  14. Utilize the electronic database SPIRIT provided by Orange County for input of CANS data and any other areas as required by the County.
  15. Provide access to follow-up mental health and/or substance abuse services based on the level of need as determined by the assessment process. Ensure youth and families are linked with an appointment with a follow up service provider (psychiatrist, therapist, etc.), within thirty days or sooner based on level of need.
  16. Develop clinical protocols related to assessment of youth to determine if the youth is experiencing a First Episode Psychosis based on best practices established by SAMHSA and in the research literature.
  17. Advertise services using a variety of methods (print, social media, etc.).
  18. Within ninety (90) days of this Agreement's effective date, establish and maintain an agreement with the School Board of Orange County, Florida, and any other entities that the Agency deems appropriate.
  19. Attend Youth Mental Health Commission meetings and Central Receiving Center (CRC) Governing Board Meetings and provide data updates.
  20. Develop and implement a Continuous Quality Improvement (CQI) Plan (i.e., a document that defines how the Agency intends to self-assess, monitor and implement changes when deficits are identified for areas defined in this section on an ongoing basis).
  21. Follow a long-term financial sustainment plan by establishing use of Mobile Crisis Assessment and Intervention (Code – H2011) and Community based wrap-around services (Code-H2022) as in lieu of codes with all Florida Medicaid Managed Medical Assistance (MMA) plans the Agency has a contractual relationship with for children's services. The Agency will report to the County on the following:
    - a. Provide a list of all Florida MMA contracts the Agency has a contractual relationship with within two weeks of contract inception.
    - b. Reach out to the MMA organizations within thirty days of contract inception and request the addition of H2011 and H2022 as billable codes to be used by the Agency and diligently seek to establish the code for use.
    - c. Provide the County with a monthly report on the results of the above activities including but not limited to; Date and time of contact, person contacted, content of conversation, response to request, future steps the Agency needs to complete for the billing code to be authorized, date of authorization of billing code and any other information the County may request.
  22. Submit written information or reports on any of the areas described in this section when requested by the County and accept oversight and technical assistance by Orange County for said areas. Technical assistance may include, but is not limited to, the following from the County: review, verbal or written feedback, use of a consultant to guide a planning process, and facilitation of discussions/trainings with Agency staff assigned to the program.

**Exhibit A**  
**Scope of Services**

**C. Major Program Goals.**

1. To provide timely, quality behavioral health crisis intervention/assessment, 24 hours a day, in the least restrictive environment; by trained professionals focused on rapid crisis de-escalation and resolution in collaboration with families.
2. To reduce symptoms or needs, build resilience, and stabilize children/youth and their families and assist them in restoring and/or improving their pre-crisis level of functioning.
3. To identify children/youth experiencing First Episode Psychosis (FEP) and immediately link to treatment, at a minimum to include follow up with a psychiatrist within twenty-four hours if the youth is maintained in the community.
4. To support the recovery and/or well-being of children/youth and their families as crises arise.
5. To enhance the quality of life of the children/youth and family served by linking and supporting the integration of the individual into the community with services and support.
6. To facilitate linkage and referrals for follow-up care to community-based outpatient behavioral health care agencies.
7. To preserve the dignity and human rights of each child/youth and family member throughout the crisis intervention experience.
8. To provide culturally and linguistically competent services based on race, gender, nationality, sexuality, and religion and utilize best practices when interpretation or translation services are needed. Services will be available to accommodate the two most widely used languages outside of English in the community (Spanish and Creole) including use of bilingual staff and translation of MCS documents in these languages, for advertising, referral, and services.

**D. Children/Youth Served.**

1. **Eligibility:** Any child/youth ages 0-17, located in Orange County, Florida who is experiencing a crisis (that may be related to mental health, substance use and/or intellectual or developmental disabilities) as determined by the family/relative/caregiver. Requests for service will also be accepted from law enforcement, school personnel, and any other person who has a temporary caretaking role of the child/youth (early childhood providers, foster care workers, juvenile justice workers, etc.). All requests will be provided with on-site service.

Except as otherwise allowed by law, the Agency shall obtain written parental consent prior to providing health care services to a minor child under this Agreement as required by Section 1014.06, Florida Statutes. Exceptions to this requirement may include, but are not limited to, providing outpatient crisis intervention services to minors 13 years of age or older in accordance with Section 394.4784, Florida Statutes.

2. **Exclusionary Criteria.** Exclusionary criteria for children/youth may include the following:

**Exhibit A**  
**Scope of Services**

- a. Child/youth located outside of Orange County at the time of the crisis requiring response.

**E. Staff Requirements.** The Agency shall maintain appropriate staffing levels including;

1. One (1) full-time Licensed Clinician who is on-call to provide telephonic and face-to-face support when needed and able to initiate a Baker Act in those situations when the crisis cannot be safely resolved. The "Licensed Clinician" must be licensed under Chapter 491, Florida Statutes.
2. A minimum of eight (8) full-time MA level clinicians dedicated to responding to MCS requests.
3. A pool of other full-time, part-time, and/or contractual staff to ensure adequate coverage and availability of responses during peak hours or weekend hours.

**F.** The Agency shall provide to the County, upon the County's request, any and all data needed for the purpose of program evaluation, monitoring, or audit. Said data shall include, but may not be limited to, information about clients served, services provided, outcomes achieved, information on materials and services delivered, and any other data that may be required to adequately evaluate program cost and effectiveness. The Agency's failure to provide the data to the County shall be deemed a breach of this Agreement and may result in this Agreement's termination at the County's sole discretion. The Agency shall ensure that it obtains all consents and written authorizations legally necessary to share client data with the County for monitoring purposes.

**G.** The Agency shall permit persons duly authorized by the County to inspect the Agency's records, papers, documents, facilities, and goods and services, and to interview clients and current and former Agency employees for matters related to this Agreement. The Agency shall make its business records custodian available to the County and provide an adequate and appropriate workspace for the County's representative to conduct evaluations, monitoring, or audit.

- Following a program evaluation, monitoring, or audit, the County will deliver a report of its findings to the Agency. The County may include in its report recommendations regarding the Agency's compliance with the terms of this Agreement.
- If the County denotes a deficiency in its report, the County will issue a written notice of corrective action to the Agency that will specify the deficiency and provide the Agency with a timeline in which to correct said deficiency. The Agency shall submit a corrective action plan to the County within the timeframe provided in the written notice of corrective action that adequately rectifies said deficiency.
- If the Agency fails to correct the deficiency described in the written notice of corrective action within the provided timeline, then the County may deem the Agency in breach of this Agreement, or terminate this Agreement, or both, at the County's sole discretion.

## Exhibit A Scope of Services

A. The Agency shall cooperate with the County on all evaluations, monitors, or audits to ensure that the Agency and its subcontractors, if any, are in compliance with the terms of this Agreement and all applicable County guidelines and requirements for recipients of County general funds.

H. **Deliverables** –The Agency shall achieve the following process and performance measures, which shall be reported to the County:

### Process Measures

- 100% of requests for service from parents/caregivers/relatives or law enforcement shall be provided with MCS as defined.
- 90% of mobile crisis response shall occur within one hour of request, counted as the time from the initial call to 211 to the on-site response of the MCS clinician.
- 95% of families shall report satisfaction with mobile crisis services.
- 95% of CANS data shall be entered into the database within 24 hours.

### Performance Measures

**Outcome: Children/Youth Diverted from hospitalization or arrest**

**Indicator:** The percentage of children/youth able to remain in their living environment as an outcome of mobile crisis services. **Target: 93%**

### Monitor data on a monthly basis for the following:

- Number of calls
- Average response time of the calls
- Dates and times of calls
- Child/youth name
- Demographic data (race, age, zip code)
- Language
- Location of response
- Law Enforcement involvement in the call (Yes or No)
- Referral source name and relation
- Reason for referral
- Number of short-term (face-to-face) psychotherapy sessions provided by a Mobile Crisis Clinician for each child/family receiving mobile crisis services (report after services have been completed).
- Type of insurance and name of plan (indicate private or Medicaid).

**Outcome: Children/Youth attending a follow up appointment with a provider within 30 days.**

**Indicator:** The percentage of children/youth provided with a follow up appointment with a provider within 30 days. **Target: 90%**

### Monitor data for the following:

- Outcome of response – A designation of the bold categories is required with the addition of other information.
  - **Inpatient care/Baker Act** - name of hospital with admission date.
  - **Arrest** – name of law enforcement agency.

**Exhibit A  
Scope of Services**

- **New service provider** - name of Agency and date of appointment.
- **Established service provider**– name of provider, type of provider, agency of provider and date of appointment.
- **No follow-up** – describe reason (no need for referral, parent not interested in referral, etc.).

**I. Monthly Reporting Schedule**

The following reports are to be submitted to the Mental Health and Homelessness Division in accordance with the Notices section of this Agreement.

<b>Deliverables</b>	<b>Format</b>	<b>Frequency of Report</b>	<b>Due Date</b>
Monthly Reports 1. process measures, and performance measures 2. Financial Sustainment Plan	Agency to create	Monthly	15 <sup>th</sup> day of the month following the end of every month.
Attend 90% of scheduled Youth Commission and CRC Governing Board Meetings	Signature on attendance sheet	N/A	Ongoing

1. Additionally, the Agency shall provide the County with a copy of any annual financial report, external audit report (including the reports of any and all audits performed by a state or federal agencies), an annual profit and loss statement and any additional performance or statistical data as requested by Orange County.



**II. SERVICE: 911 COMMUNICATION CENTER DIVERSION****A. Overview of Program.**

Every year, millions of 911 calls involve a person experiencing an emergency related to a mental health or substance use disorder—situations often referred to as behavioral health crises. The call-takers and dispatchers answering these emergency calls make critical assessments of the health and safety of those involved in each call, decide whether help is needed, and, if it is, determine whether it should be led by law enforcement officers, emergency medical services, or more specialized field responses (if available).

Behavioral health diversion programs, such as “911 Communications Center Diversion”, can connect people to services and reduce reliance on the criminal justice system while maintaining public safety, reducing unnecessary police contact while connecting people in crisis directly with mental health professionals. The Agency shall provide the 911 Communications Center Diversion service at the Orange County Sheriff’s Office’s (OCSO) Primary Public Safety Answering Point (PSAP) located at the Orange County 911 Communications Center. The Agency shall utilize a “Licensed Clinician” that is licensed under Chapter 491, Florida Statutes, to provide the 911 Communications Center Diversion service. OCSO may require the Licensed Clinician to become a certified 911 public safety telecommunicator under Section 401.465, Florida Statutes.

**B. Specific Design of Service.**

The Agency will develop protocols, policies and procedures for triage and diversion activities. The Agency shall enter into an agreement with OCSO within sixty (60) days of this Agreement’s execution to establish written policies and procedures for this service including, but not limited to, training requirements for the Licensed Clinician and 911 staff, procedures for the transfer of calls, and guidelines for crisis de-escalation. The Agency will submit the documents to the County within fifteen (15) days of finalization. A general process as required herein may be as follows:

1. An OCSO 911 public safety telecommunicator (or “Dispatcher”) may receive and tag a call as a Mental Health or Substance Abuse related crisis and seek immediate assistance/consultation for next steps from the Licensed Clinician.
2. Dispatcher may receive and tag a call as a Mental Health or Substance Abuse related crisis and then transfer to the Licensed Clinician for further triage.
3. Licensed Clinician can further triage calls by gathering more information and providing brief crisis de-escalation to caller.
  - a. If an immediate safety concern to caller or other individuals occurs at call location, Licensed Clinician will immediately coordinate with OCSO to dispatch any and all appropriate Emergency Services to caller.
  - b. If call is regarding an individual between 0-24 and there are no safety concerns, Licensed Clinician may immediately engage Devereux Mobile Crisis Services (MCS) to respond to call for further intervention.
    - i. If there are safety concerns, Deputies and other appropriate Emergency Services may also be dispatched to secure the scene prior to Clinician arrival from MCS.

**Exhibit A  
Scope of Services**

- ii. Except as otherwise allowed by law, the Licensed Clinician shall obtain written parental consent prior to providing health care services to a minor child under this Agreement as required by Section 1014.06, Florida Statutes. Exceptions to this requirement may include, but are not limited to, providing outpatient crisis intervention services to minors 13 years of age or older in accordance with Section 394.4784, Florida Statutes.
- c. If call is regarding an individual 25 years or older, Licensed Clinician and Dispatcher may dispatch 1<sup>st</sup> responder deputy and available the Orange County Sheriff's Office Behavioral Response Unit (BRU) for further intervention.
  - i. Licensed Clinician and Dispatcher may remain on the phone to continue attempt to de-escalate the call until deputy or BRU team arrives.
- d. If call can be successfully de-escalated with Licensed Clinician and Dispatcher intervention over the phone, Licensed Clinician and Dispatcher may offer resources to individual and/or offer BRU team follow up at a later time.

**C. Major Program Goal** – to divert calls from persons experiencing a mental health crisis from needing a law enforcement response.

**D. Persons Served.**

**1. Eligibility:** Any person, located in Orange County, Florida who is experiencing a crisis (that may be related to mental health, substance use and/or intellectual or developmental disabilities) and a call has been made to the OCSO Primary PSAP.

**2. Exclusionary Criteria.** Exclusionary criteria for any person may include the following:

- a. Person located outside of Orange County at the time of the crisis, 911 call.

**E. Staff Requirements.** The Agency shall maintain appropriate staffing levels including;

- 1. One (1) full-time Licensed Mental Health Clinician/Dispatcher who is working in the Orange County, 911 Communication Center, Monday through Friday from 11a.m. to 7p.m. Their primary role is to triage mental health related calls and dispatch further assistance as appropriate. The licensed clinician/dispatcher will offer training, support, and ongoing consultation to the communication center as needed. Alterations to the above schedule must be submitted to the County in writing and approved before alterations will be allowed.
- 2. The Licensed Clinician must be licensed under Chapter 491, Florida Statutes, and OCSO may require the Licensed Clinician to become a certified 911 public safety telecommunicator under Section 401.465, Florida Statutes.

**F. Deliverables** –The Agency shall achieve the following performance outcome measures, which shall be reported quarterly to the County:

**Outcome 1: Calls diverted from law enforcement response.**

Indicator: The percentage of calls diverted from needing a law enforcement officer response.

**Target -75%**

**Exhibit A**  
**Scope of Services**

**Outcome 2: Calls provided with community resources.**

Indicator: The percentage of calls provided with community resources. **Target – 80%**

Monitor data for the following:

- # of total calls managed by Clinician (received from call takers)
- Reason for call
  - # of calls primarily mental health crisis
  - # of calls primarily a substance abuse crisis
  - # of calls primarily other than mental health or substance abuse (denote reason in a comment section)
- Outcome of Calls
  - # of calls resulting in LEO dispatch
  - # of calls resulting in dispatch of Mobile Crisis Services with Devereux
  - # of calls referred to the Behavioral Response Unit for follow up
  - # of calls referred to community resources
  - # of calls not needing follow-up
  - # of calls other – (denote reason in a comment section)
- Submit a record of training sessions (Agenda and sign-in sheet) provided to communications personnel.

**G. Monthly Reporting Schedule**

Deliverables	Accountability Format	Frequency of Report	Due Date
Performance Measures Report	Written report to Division Manager – Consultant to create	Quarterly	15 <sup>th</sup> day of the month following the end of the quarter

## EXHIBIT B BUDGET

### I. BUDGET: MOBILE CRISIS SERVICES.

- A. The Agency shall incur costs and spend Funds in accordance with the terms of this Agreement, the *Scope of Services*, and the categorical line-item *Budget* that is attached to this Agreement as **Exhibit "B."**
- B. The Agency shall ensure that a correct and completed categorical line-item *Budget* is attached to this Agreement and to any amendments that renew this Agreement for additional terms.
- C. If the total amount of Funds provided for under this Agreement is increased or decreased at any time during the Agreement Term or any renewal terms, the Agency will provide a revised budget to the County within thirty (30) days of the funding change.
- D. The Agency may make adjustments to categorical line-items in the *Budget* without submitting a revised budget to the County so long as the total adjustment to the categorical line- item is not more than fifteen-percent (15%) of an increase or decrease to the categorical line. Budget line-item shifts of more than fifteen-percent (15%) require the Agency to submit a written request to the County, and will only be permitted upon the County's review and approval of the Agency's written request.
- E. Administrative costs shall not exceed ten-percent (10%) of the amount expended by the Agency. Indirect costs shall be included as part of the administrative costs and shall include, but not be limited to, executive, clerical and bookkeeping payroll.
- F. For any position that is fully or partially paid for with County Funds, the total of all work time for that position, allocated to or paid for by all funding sources, shall not exceed one-hundred percent (100%) of its total available work time.
- G. The Agency shall maintain sufficient resources to meet any expenses incurred during the period of time between the provision of Services and payment by the County.

### Orange County MCS Budget Summary

Expenses	Annual Total
Salaries (Full-Time, Part Time, Contractual, percentage of administration salaries such as Directors, Managers, Clerical, etc.), Payroll Taxes & Benefits	\$747,034.37
Staff Training and Recruitment	\$16,596.52
Communications, Data Lines & Support, Occupancy	\$44,219.69
Equipment Rental & Maintenance, Depreciation	\$7,493.80
Insurance & Interest	\$29,492.22
Office Supplies, Postage, Dues, Accreditations and Licensure expenses	\$3,613.69
Subtotal Direct Expenses	\$848,490.29
Administrative Expense – 10%	\$84,849.02
<b>Total Expenses</b>	<b>\$933,339.31</b>

II. **BUDGET: 911 COMMUNICATION CENTER DIVERSION**

<b>Expenses</b>	<b>Annual Total</b>
Salaries, Payroll Taxes & Benefits (1 Licensed FTE and 0.5 of an Administrator position)	\$ 90,685.04
Staff Training and Recruitment	\$ 683.95
Communications	\$ 630.00
Insurance & Interest	\$ 3,483.18
Office Supplies, Postage, Dues, Accreditations and Licensure expenses	\$ 171.76
<b>Subtotal Direct Expenses</b>	<b>\$ 95,653.93</b>
Administrative Expenses	\$ 9,565.39
<b>Subtotal Expenses</b>	<b>\$ 105,219.32</b>

**EXHIBIT C  
E-VERIFICATION CERTIFICATION**

**NAME OF CONTRACTOR:** \_\_\_\_\_ (referred to herein as "Contractor")

**ADDRESS OF CONTRACTOR:**  
\_\_\_\_\_

The undersigned does hereby certify that the above-named contractor:

1. Is, or will be, registered with and using the E-Verify system prior to execution of the contract with Orange County; or
2. Is, or will be, registered with the E-Verify system prior to execution of the contract with Orange County, but does not have any employees and does not intend to hire any new employees during the period of time that the contractor will be providing services under the contract; or
3. Is, or will be, registered with the E-Verify system prior to execution of the contract with Orange County, but employs individuals who were hired prior to the commencement of providing labor on the contract and does not intend to hire any new employees during the period of time that the contractor will be providing labor under the contract.

The undersigned acknowledges the use of the E-Verify system for newly hired employees is an ongoing obligation for so long as the contractor provides labor under the contract and that the workforce eligibility of all newly hired employees will be properly verified using the E-Verify system.

**In accordance with Section 837.06, Florida Statutes, Contractor acknowledges that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duties shall be guilty of a misdemeanor in the second degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes.**

**AUTHORIZED SIGNATURE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

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**BUSINESS ASSOCIATE AGREEMENT**

*between*

**ORANGE COUNTY, FLORIDA**

*and*

**THE DEVEREUX FOUNDATION, INC. D/B/A DEVEREUX ADVANCED  
BEHAVIORAL HEALTH FLORIDA**

*related to*

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

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**THIS ADDENDUM (“Addendum”)** is by and between **ORANGE COUNTY, FLORIDA** (the “County”), a charter county and political subdivision of the State of Florida, located at 201 South Rosalind Avenue, Orlando, Florida 32801, on behalf of its Mental Health and Homelessness Division (the “County”), and **THE DEVEREUX FOUNDATION, INC. D/B/A DEVEREUX ADVANCED BEHAVIORAL HEALTH FLORIDA**, a Pennsylvania not for profit corporation with a principal address at 444 Devereux Drive, Villanova, Pennsylvania 19085 (“Business Associate”). The County and Business Associate may be referred to individually as “party” or collectively as “parties.”

**RECITALS**

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

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

**WHEREAS**, the County, on behalf of its Covered Healthcare Component, and the Business Associate entered into Contract No. Y23-2215 (the “Agreement”) regarding the Business Associate’s provision of services to the County (the “Services”); and

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

**Attachment 1  
Business Associate Agreement**

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

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

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

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

**Section 1.     Incorporation.**

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

**Section 2.     Definitions.**

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



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

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Business Associate Agreement**

- ii. A financial account number or credit or debit card number in combination with any required security code, access code, or password that is necessary to permit access to an individual's financial account;
  - iii. Any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or
  - iv. An individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
  - v. Any other identifier, as referenced in the Department of Health & Human Services "Safe Harbor Standards."
  - vi. The term "Personally Identifiable Information" does not include information about an individual that has been made publicly available by a federal, state, or local governmental entity. The term also does not include information that is encrypted, secured, or modified by any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable.
- c. A username or e-mail address, in combination with a password or security question and answer that would permit access to an online account.
- d. The PII provided pursuant to the Agreement shall be limited to what is necessary for the Business Associate to meet its obligations thereunder.
8. ***Protected Health Information ("PHI")*** shall mean an individual's identifiable health information, as defined under 42 U.S.C. §1320d, as amended, with the exception of education records covered by the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, as amended, and the health care records of students at post-secondary educational institutions or of students eighteen (18) years of age or older, used exclusively for their health care treatment which have not been disclosed to anyone other than a health care provider at the student's request. The PHI provided pursuant to the Agreement shall be limited to what is necessary for the Business Associate to meet its obligations thereunder.
9. ***Required by Law*** shall have the same meaning as the term "required by law" in 45 CFR §164.103.
10. ***Secretary of Health and Human Services*** shall mean the Secretary of the Health and Human Services ("HHS") or any other officer or employee of HHS to whom the authority involved has been delegated.

**Attachment 1  
Business Associate Agreement**

11. **Security Incident** shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PII contained in any form or interference with system operations in an information system that contains PHI or PII.
12. **Use** shall mean the sharing, employment, application, utilization, examination, or analysis of PII or PHI within an entity that maintains such information.

**Section 3. Scope of this Addendum.**

A. **Independent Status of Parties.** The parties agree that they are, and shall be, independently responsible for complying, and shall independently comply, with the HIPAA Privacy and Security rules, 45 CFR Parts 160, 162, and 164; 42 CFR Part 2; the HITECH Act Breach Notification rules, Pub. L. No 111-5, Title XIII, 123 Stat. 226 (2009); and the Florida Information Protection Act, §501.171, Florida Statutes; all where applicable and as amended.

B. The parties further agree that they are, and shall be, responsible for their own actions and conduct and shall not assume responsibility for the actions and conduct of one another. Additionally, the parties agree that they shall maintain all corporate formalities establishing separate and individual control by each organization's board of directors, as applicable.

C. The Business Associate acknowledges that the confidentiality requirements set forth herein shall apply to all of its employees, agents, and/or representatives. The Business Associate assumes responsibility and liability for any damages or claims, including (but not limited to):

1. State and federal administrative proceedings and sanctions brought against the County; and/or
2. Costs and attorneys' fees resulting from the breach by the Business Associate of the confidentiality requirements of this Addendum or the Agreement.

**Section 4. Privacy of PHI and Confidentiality of PII.**

A. **Permitted Uses and Disclosures of PHI and PII by Business Associate.** The Business Associate may use, or disclose, PHI and PII received from the County to its officers and employees. The Business Associate may disclose PHI and PII to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit PHI and PII on its behalf if the Business Associate obtains satisfactory assurances, in accordance with 45 CFR § 164.504(e)(1)(i) and § 501.171(2), Florida Statutes, that the subcontractor will appropriately safeguard the information. All other uses or disclosures not otherwise authorized by this Addendum or otherwise governed by law are prohibited.

B. **Responsibilities of the Business Associate.** Regarding the use or disclosure of PHI and PII, the Business Associate agrees to:

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Business Associate Agreement**

1. Only use or disclose the PHI and PII as allowed under this Addendum or otherwise by applicable law.
2. Only use or disclosure PHI and PII in a manner that would not violate the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, or FIPA, if done so by a Covered Entity.
3. Establish and implement appropriate procedures, physical, and technical safeguards to prevent improper access, uses, transmissions, or disclosures of PHI and PII for mitigating, to the greatest extents possible under the circumstances, any deleterious effects from any improper access, use, or disclosure of PHI and PII that the Business Associate reports to the County. Safeguards shall include, but are not limited to: (a) the implementation and use of electronic security measures to safeguard electronic data; (b) requiring employees to agree to access, use, or disclose PHI and PII only as permitted or required by this Addendum; and (c) taking related disciplinary action for inappropriate access, use or disclosure as necessary.
4. Ensure that the Business Associate's subcontractors or agents to whom the Business Associate provides PHI or PII that is created, received, maintained, or transmitted on behalf County agree to the same restrictions and conditions that apply to the Business Associate with respect to PHI and PII, and ensure that its subcontractors or agents agree to establish and implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of all PHI and PII that it creates receives, maintains, or transmits on behalf of the County.
5. Make the Business Associate's records, books, accounts, agreements, policies, and procedures available to the Secretary of HHS for determining the County's compliance with the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, and also, with the State of Florida's Department of Legal Affairs to determine the County's compliance with FIPA.
6. Limit use by, or disclosure to, its subcontractors, agents, and other third parties, to the minimum PHI and PII necessary to perform or fulfill a specific function required or permitted hereunder.
7. Provide information to the County to permit the County to respond to a request by an individual for an accounting of disclosures within five (5) days of receiving a written request from the County, if the Business Associate maintains a Designated Records Set on behalf of the County.
8. Provide access to the PHI and PII maintained by the Business Associate to the County or individual, if the Business Associate maintains a Designated Records Set on behalf of the County, at the request of, and in the time and manner designated by, the County.

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9. Make any amendment(s) to the PHI and PII when directed by the County, if the Business Associate maintains a Designated Record Set on behalf of the County, at the request of, and in the time and manner designated by, the County.
10. Establish and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI and PII the Business Associate creates, receives, maintains, or transmits on behalf of the County.
11. Report to the County any Security Incident involving PHI and PII that the Business Associate discovers in the manner detailed in Section 7 below.

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

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

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

E. **Data Aggregation Services.** With respect to PHI and PII created or received by the Business Associate in its capacity as the Business Associate of the County, the Business Associate may combine such PHI and PII it has received from the County with the PHI and PII received by the Business Associate in its capacity as a Business Associate of another Covered Entity, or Hybrid Covered Entity, to permit data analysis that relates to the health care operation of the respective Covered Entity, or Hybrid Covered Entity, if data analyses is part of the Services that Business Associate is to provide to the County pursuant to the Agreement.

F. **Compliance.** The Business Associate agrees to keep all PHI and PII confidential and secure in compliance with the provisions of this Addendum and according to current state and federal laws.

**Section 5. Confidentiality.**

A. In the course of performing under this Addendum, each party may receive, be exposed to, or acquire the confidential information including, but not limited to, all information, data, reports,

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records, summaries, tables, and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identifiable as confidential (“Confidential Information”) of the other party.

B. For purposes of this Addendum, Confidential Information shall **not** include PHI, the security and privacy of which is the subject of this Addendum. The parties, including their employees, agents, or representatives shall:

1. Not disclose to any third party the Confidential Information of the other party except as otherwise permitted by this Addendum, or as mandated by the State of Florida’s Public Records Laws;
2. Only permit use of such Confidential Information by employees, agents, and representatives having a need to know in connection with performance under the Agreement; and
3. Advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential.

C. This provision shall not apply to Confidential Information:

1. After it becomes publicly available through **no fault** of either party;
2. Which is later publicly released by either party in writing;
3. Which is lawfully obtained from third parties without restrictions; and/or
4. Which can be shown to be previously known or developed by either party independently of the other party.

**Section 6. Security.**

A. **Security of Electronic Protected Health Information and Personal Information.** The Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI (as defined in 45 C.F.R. §160.103) (“Electronic PHI”) and PII (as defined by §501.171, Florida Statutes) that the Business Associate creates, receives, maintains, or transmits on behalf of the County consistent with the HIPAA Privacy and Security rules, HITECH Act Breach Notification rules, and FIPA.

B. **Reporting Security Incidents.** The Business Associate will report to the County any Security Incident of which the Business Associate becomes aware that is:

1. A successful unauthorized access, use or disclosure of Electronic PHI or PII;
2. A modification or destruction of Electronic PHI or PII; or

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3. Interference with system operations in an information system containing Electronic PHI or PII.

**Section 7. Reporting Requirements.**

A. **Reporting.** The Business Associate shall make a good faith effort to identify any use or disclosure of protected information not provided for in this Addendum.

B. **Reporting to the County.**

1. The Business Associate will report to the County within:
  - a. Two (2) days of any suspected—or confirmed—access, use, or disclosure of PHI or PII, regardless of form, not permitted or required by this Addendum of which the Business Associate becomes aware; and
  - b. Twenty-four (24) hours of discovery, any Security Incident of which the Business Associate is aware.
2. Such report shall include the identification of each individual whose unsecured PHI and PII has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
3. Reports of Security Incidents shall include a detailed description of each Security Incident, at a minimum, to include: (a) the date of the Security Incident; (b) the nature of the Security Incident; (c) the information involved, whether the information was accessed, disclosed, used, modified, destroyed, etc.; (d) the identities of the individual(s) and their relationship to the Business Associate; (e) a description of the Business Associate's response to each Security Incident; (f) and the name and title of the individual the County should contact for additional information.
4. The Business Associate will conduct such further investigation as is reasonably required by the County and promptly advise the County of additional information pertinent to the Security Incident.
5. The Business Associate will cooperate with the County in conducting any required risk analysis related to such Security Incident(s).
6. The Business Associate will cooperate with the County in complying with any applicable notification requirements pursuant to the HITECH Act Breach Notification rules and/or pursuant to Florida law (including, but not limited to, §501.171, Florida Statutes), and in taking steps determined by the County to be necessary to mitigate any potential harm caused by a Security Incident. The Business Associate will pay and/or reimburse the County for any reasonable

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expenses the County incurs in notifying individuals of, and /or mitigating potential harm caused by, a Security Incident caused by the Business Associate and/or its subcontractors or agents.

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

D. **Reporting to Media.** In the case of a breach of PHI discovered by the Business Associate where the unsecured PHI of more than five hundred (500) persons or unsecured PII of more than five hundred (500) persons is reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the County, the Business Associate shall provide notice to prominent media outlets serving the state or relevant portion of the state involved.

E. **Reporting to HHS and the State of Florida Department of Legal Affairs.** The Business Associate shall cooperate with the County to provide notice of unsecured PHI and/or PII that has been acquired or disclosed in a breach to the Secretary of HHS and to the State of Florida's Department of Legal Affairs. If the breach was with respect to five hundred (500) or more individuals, such notice shall be provided immediately. If the breach was with respect to less than five hundred (500) individuals, the Business Associate shall maintain a log of such breach occurring and shall annually submit such log to the County so that it may satisfy its obligation to notify the Secretary of HHS documenting such breaches occurring in the year involved.

F. **Content of Notices.** All notices and reports required under this Addendum shall include the content set forth 45 C.F.R §164.404, the HITECH Act Breach Notification rules, and FIPA, each as amended. Notification to individuals sent by the Business Associate pursuant to this Agreement shall clearly state that the breach was on the Business Associate's part.

1. Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:
  - a. A brief description of what happened, including the date of the breach and



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the date of the discovery of the breach, if known;

- b. A description of the types of unsecured PHI and PII that were involved in the breach (such as full name, social security number, date of birth, home address, account number, or disability code);
- c. The steps individuals should take to protect themselves from potential harm resulting from the breach;
- d. A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches; and
- e. Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.

G. **Notice to Credit Reporting Agencies.** In the case of a breach of PII discovered by the Business Associate where the unsecured PII of more than one thousand (1000) individuals has reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the County, the Business Associate shall notify all consumer reporting agencies nationwide, that complete and maintain files in accordance with the provisions of §501.171(5), Florida Statutes.

H. **Financial Responsibility.** The Business Associate shall be responsible for all costs related to the notice required herein.

I. **Mitigation.** The Business Associate shall mitigate, to the extent practicable, any harmful effects that are known to the Business Associate of use or disclosure of PHI or PII in violation of this Addendum, the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, and FIPA.

J. A violation of any paragraph and/or subsection of this Section shall be a material violation of this Addendum.

**Section 8. Termination.**

A. **Immediate Termination.** The County is authorized to immediately terminate the Agreement if it determines – based in its sole discretion – that the Business Associate has violated a material term of this Addendum. The County shall hand deliver or send certified notice of such termination to the Business Associate and shall only be liable to the Business Associate for any work performed prior to the date of the Business Associate’s receipt termination.

B. **Opportunity to Cure.** At its sole discretion, the County may:

- 1. Provide the Business Associate an opportunity to cure the breach within a time period deemed reasonable by the County; and

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2. Terminate the Agreement should the Business Associate fail to cure the breach to the County's satisfaction within the time period provided.

C. **Effects of Termination.** Termination of the Agreement shall not affect any claim or rights that may arise based on the acts or omissions of the parties prior to the effective date of termination. It will also not in any way impact the survival of any term by which its nature is intended to survive the expiration, cancellation, or termination of the Agreement and/or this Addendum.

D. **Duties of Business Associate Upon Termination of the Agreement.**

1. When the Agreement is terminated, the PHI and PII that the Business Associate received from, created, or received on behalf of the County shall, at the Business Associate's sole expense, be returned to the County with any copies and/or duplicates thereof destroyed. This mandate includes all PHI and PII in the possession of the Business Associate's subcontractors and/or agents.
2. If the Business Associate determines that returning and/or destroying copies and duplicates of the relevant PHI and PII is not feasible, the Business Associate must maintain the privacy protections under this Addendum and according to applicable law for as long as the Business Associate retains the PHI and PII. Additionally, the Business Associate may only use or disclose the PHI and PII for specific uses or disclosures that make it necessary for the Business Associate to retain the PHI and PII.
3. If the Business Associate determines that it is not feasible for it to return PHI or PII in the possession of one of its subcontractors or agents, the Business Associate must provide a written explanation to the County of such reasons and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions contained in this Addendum to the subcontractor's or agent's use or disclosure of any PHI and PII retained after the termination of the Agreement, and to limit any further uses or disclosures for the purposes that make the return and destruction of all copies and duplicates of the PHI or PII not feasible.

**Section 9. General Terms.**

A. **Agreement Subject to All Applicable Laws.** The parties recognize and agree that the Agreement, and any and all activities performed thereunder, is governed by federal, state, and local laws, including the regulations, rules, and policies of the U.S. Department of Health and Human Services including, but not limited to, HIPAA Privacy and Security rules, FIPA, and their accompanying regulations. The parties further recognize and agree that the Agreement is subject to new legislation as well as amendments to government regulations, rules, and police, and agree to amend this Addendum accordingly.

B. **No Third-Party Beneficiaries.** Nothing expressed or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than the parties and the

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respective successors or assigns of the parties any rights, remedies, obligations, or liabilities whatsoever.

C. **Survival.** The rights and obligations of the parties in Sections 4, 5, 6, 7 in their entirety, as well as subsections 8D., 9E., 9G., and 9H., shall survive termination of the Agreement indefinitely.

D. **Written Modification.** No modification of this Agreement shall be binding upon any party to this Agreement unless reduced to writing and signed by a duly authorized representative of each party to this Agreement.

E. **Enforcement Costs and Attorneys' Fees.** If legal action or other proceedings, including arbitration, is brought for the enforcement of this Addendum, or because of an alleged dispute, breach, default, or misrepresentation in connection with any provision of this Addendum, each party will hereby be responsible for its own costs and attorneys' fees. This does not negate any of the Business Associate's responsibilities for costs and/or attorneys' fees that are otherwise specifically provided for herein.

F. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the County to comply with the HIPAA Privacy and Security rules, the HITECH Act Breach Notification rules, and FIPA.

G. **Indemnification.** To the fullest extent permitted by law, the Business Associate shall defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including attorneys' fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or part by any act or omission of the Business Associate, anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the County. In the event the Business Associate is a state department or division, or a political subdivision of the State of Florida, indemnification shall follow the provisions of Section 768.28, Florida Statutes.

H. **Signatory Authority.** Each signatory to this Addendum represents and warrants that he or she possesses all necessary capacity and authority to act for, sign, and bind the respective entity or person on whose behalf he or she is signing.

I. **Notice.** All notices and other communications under this Addendum shall be in writing and shall be deemed received when delivered personally or when deposited in the U.S. mail, postage prepaid, sent registered, or certified mail, return receipt requested, or sent via nationally recognized and receipted overnight courier service, to the parties at their respective principal office or record as set forth below or as designed in writing from time-to-time. No notice of a change of address shall be effective until received by the other party(ies).

**To the County:**

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

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Orlando, Florida 32806

**AND**

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

**AND**

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

**To the Business Associate:** Devereux Advanced Behavioral Health Florida  
Orlando Campus  
5850 T.G. Lee Boulevard, Suite 400  
Orlando, Florida 32822

J. **Severability.** If any provision of this Addendum, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Addendum, or the application of such affected provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Addendum shall be valid and shall be enforced to the fullest extent permitted by law. It is further the intention of the parties that if any provision of this Addendum were capable of two constructions – one that rendered the provision void and one that renders the provision valid – then the provision shall have the meaning that renders it valid.

K. **Successors and Assigns.** The Business Associate shall not assign either its obligations or benefits under this Addendum without the expressed written consent of the County, which shall be at the sole discretion of the County. Given the nature of this Addendum, neither subcontracting nor assignment by the Business Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.

L. **Governing Law.** This Addendum shall be governed by and construed in accordance with the laws of the State of Florida to the extent not preempted by the HIPPA Privacy and Security rules or other applicable federal law.

M. **Venue.** For any legal proceeding arising out of or relating to this Addendum, each party hereby submits to the exclusive jurisdiction of, and waives any venue or other objection against, the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the U.S. Middle District of Florida.

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N. **Jury Waiver.** Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Addendum.

O. **Waiver and Breach.** No failure by a party to insist upon the strict performance of any covenant, agreement, term, or condition of this Addendum shall constitute a waiver of any such breach or such covenant, agreement, term, or condition. Any party may waive compliance by the other party with any of the provisions of this Addendum if done so in writing. No waiver of any provision shall be construed as a waiver of any other provision or any subsequent waiver of the same provision.

P. **Entire Agreement.** The Agreement, this Addendum and/or any additional addenda or amendments to the Agreement, any documents incorporated herein by reference, and/or attachments hereto, shall construe the entire understanding between the parties as to the rights, obligations, duties, and services to be performed hereunder.

**[ SIGNATURES ON FOLLOWING PAGE ]**

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

**ORANGE COUNTY, FLORIDA**

By: The Board of County Commissioners

By: \_\_\_\_\_  
*[Handwritten Signature]*

Carrie Mathes, Procurement Division Manager or

Zulay Millan, Procurement Division Assistant Manager

Date: 10-5-23

**THE DEVEREUX FOUNDATION, INC.**

**D/B/A DEVEREUX ADVANCED BEHAVIORAL HEALTH FLORIDA**

DocuSigned by:  
*Kelly Messer*  
18724E60B97046B...

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Kelly Messer

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

\_\_\_\_\_  
09/29/23

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director of Finance

\_\_\_\_\_  
Official Title

STATE OF FLORIDA )

COUNTY OF Orange )

The foregoing instrument was acknowledged before me on this 29 day of September 2023, by Kelly Messer, in his or her official capacity as the Director of Finance of The Devereux Foundation, Inc. d/b/a Devereux Advanced Behavioral Health Florida.

*[Handwritten Signature]*  
\_\_\_\_\_  
Signature Notary Public

Print, Type/Stamp Name of Notary

- Personally Known
- Produced Identification  
Type of Identification Produced: \_\_\_\_\_

