## County of San Bernardino

### F A S

**STANDARD CONTRACT**

<table>
<thead>
<tr>
<th>Vendor Code</th>
<th>Dept.</th>
<th>Orgn.</th>
<th>Contract Number</th>
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<tbody>
<tr>
<td>SOCIALA009</td>
<td>SC</td>
<td>ADS</td>
<td>09-1058 A-1</td>
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<table>
<thead>
<tr>
<th>County Department</th>
<th>Dept.</th>
<th>Orgn.</th>
<th>Contractor's License No.</th>
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<tbody>
<tr>
<td>Behavioral Health</td>
<td>ADS</td>
<td>ADS</td>
<td></td>
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<table>
<thead>
<tr>
<th>County Department Contract Representative</th>
<th>Telephone</th>
<th>Total Contract Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ellayna Hoatson</td>
<td>382-3177</td>
<td>$267,840</td>
</tr>
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### County Department Contract Representative

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone</th>
<th>Federal ID No. or Social Security No.</th>
</tr>
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<tbody>
<tr>
<td>Social Action Community Health System, Inc.</td>
<td>1454 East 2nd Street, San Bernardino, CA 92408</td>
<td>(909) 382-7135</td>
<td>33-0664371</td>
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### Contract Type

- Revenue
- Encumbered
- Unencumbered
- Other:

### Commodity Code

<table>
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<tr>
<th>Commodity Code</th>
<th>Contract Start Date</th>
<th>Contract End Date</th>
<th>Original Amount</th>
<th>Amendment Amount</th>
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<tr>
<td>Oct. 1, 2009</td>
<td>FY 09/10</td>
<td>FY 10/11</td>
<td>$95,945</td>
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<td>$15,225</td>
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### Project Name

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<tr>
<th>Project Name</th>
<th>Estimated Payment Total by Fiscal Year</th>
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<tr>
<td>Alcohol and Drug</td>
<td>FY 09/10 $95,945 I/D 10/11 $156,670 I/D</td>
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- **AAA ADS**
  - Appr. 200 Obj/Rev Source 2445 GRC/PROJ/JOB No. 2778 Amount $67,840
  - Appr. 200 Obj/Rev Source 2445 GRC/PROJ/JOB No. 2426 Amount $200,000

### IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

IN THAT CERTAIN Contract No. 09-1058 by and between the County of San Bernardino, a political subdivision of the State of California, and Contractor, which Contract first became effective October 1, 2009, the following changes are hereby made and agreed to:

**I. ARTICLE IV FUNDING** is hereby amended to read as follows:

A. This Agreement is contingent upon sufficient funds being made available by Federal, State and/or County governments for the term of the Agreement. Funding is subject to availability. Funding is by fiscal year period July 1 through June 30. Costs and services are accounted for by fiscal year. Any unspent fiscal year allocation does not roll over and is not available in future years, except JAG-OTP. See Paragraph B. 3. below. Each fiscal year period will be settled to Federal and/or State cost reporting accountability.
II.  ARTICLE IV FUNDING is hereby amended to add the following:

B.  3. JAG-OTP Funding is further limited. The funding period is October 1, 2009 through March 31, 2011. Unspent funds from Fiscal Year 2009-10 may be used in 2010-2011 through March 31, 2011 with the prior written approval of the DBH Director or his/her designee.

G.  The Federal CFDA # is 16.803, 93.778, and 93.959.

III. ARTICLE V PAYMENT is hereby amended to read as follows:

B.  Contractor shall bill County monthly in arrears for County services on claim forms provided by County. All claims submitted shall clearly reflect all required information. Claims for Reimbursement shall be completed and forwarded to County within ten days after the close of the month in which services were rendered. Following receipt of a complete and correct monthly claim, County shall make payment. Payment, however, for any mode of service covered hereunder, shall be limited to a maximum monthly amount, which amount shall be determined as noted.

For the period of FY 2009/2010, no single monthly payment for combined County services shall exceed one-ninth (1/9) of the maximum combined County allocations for the mode of service unless there have been payments of less than one-ninth (1/9) of such amount for any prior month of the Agreement. To the extent that there have been such lesser payments, then the remaining amount (s) may be used to pay monthly combined County services claims which exceed one-ninth (1/9) of the maximum combined County allocations for that mode of service. The maximum combined County allocations for a particular mode of service are reflected in the Schedules A and B.

For the period of FY 2010/2011, no single monthly payment for combined County services shall exceed one-twelfth (1/12) of the maximum combined County allocations for the mode of service unless there have been payments of less than one-twelfth (1/12) of such amount for any prior month of the Agreement. To the extent that there have been such lesser payments, then the remaining amount (s) may be used to pay monthly combined County services claims which exceed one-twelfth (1/12) of the maximum combined County allocations for that mode of service. The maximum combined County allocations for a particular mode of service are reflected in the Schedules A and B.

IV.  ARTICLE VI ELECTRONIC SIGNATURES is hereby added to read as follows:

A.  The state Department of Mental Health (DMH) and Alcohol and Drug Programs (ADP) have each respectively established the requirements for electronic signatures in electronic health record systems. DBH has sole discretion to authorize contractors to use e-signatures as applicable. If a contractor desires to use e-signatures in the performance of this contract the contractor shall:

1.  Submit the request in writing to DBH Compliance Unit.
2.  Fulfill all requisite pre-conditions and meet all the latest requirements of DBH, DMH and/or ADP.
3.  Obtain prior written approval from the Director of DBH or his designee.

B.  DBH reserves the right to terminate e-signature authorization at will.

V.  ARTICLE VI COST SETTLEMENT: COST REPORT is hereby renumbered as ARTICLE VII.

VI.  ARTICLE VII FINAL SETTLEMENT: AUDIT is hereby renumbered as ARTICLE VIII and is amended to read as follows:
A. Contractor agrees to maintain and retain all appropriate service and financial records for a period of at least five years, or until audit findings are resolved, which ever is later. This is not to be construed to relieve Contractor of the obligations concerning retention of medical records as set forth in Article XXII Medical Records/Protected Health Information, Paragraphs A and B.

VII. ARTICLE VIII SINGLE AUDIT REQUIREMENT is hereby renumbered as ARTICLE IX.

VIII. ARTICLE IX SPECIAL REPORTS is hereby renumbered as ARTICLE X.

IX. ARTICLE X CONTRACT PERFORMANCE NOTIFICATION is hereby renumbered as ARTICLE XI.

X. ARTICLE XI DURATION AND TERMINATION is hereby renumbered as ARTICLE XII and is amended to read as follows:

A. The term of this agreement shall be from October 1, 2009 through June 30, 2011 inclusive.

D. This agreement may be terminated at any time by the mutual written concurrence of both the Contractor and the Director.

XI. ARTICLE XII ACCOUNTABILITY: REVENUE is hereby renumbered as ARTICLE XIII.

XII. ARTICLE XIII PATIENT/CLIENT BILLING is hereby renumbered as ARTICLE XIV.

XIII. ARTICLE XIV PERSONNEL is hereby renumbered as ARTICLE XV.

XIV. ARTICLE XV LICENSING AND CERTIFICATION is hereby renumbered as ARTICLE XVI and is amended to add the following:

B. Contractor shall comply with the United States Department of Health and Human Services, Office of Inspector General (OIG) requirements related to eligibility for participation in Federal and State health care programs.

1. Ineligible Persons may include both entities and individuals and are defined as any individual or entity who:

   a. Is currently excluded, suspended, debarred or otherwise ineligible to participate in the Federal and State health care programs; or

   b. Has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the Federal and State health care programs after a period of exclusion, suspension, debarment, or ineligibility.

2. Contractor shall review the organization and all its employees, subcontractors, agents, physicians and persons having five percent (5%) or more of direct or indirect ownership or control interest of the Contractor for eligibility against the United States General Service Administration’s Excluded Parties List System (EPLS) and the OIG’s List of Excluded Individuals/Entities (LEIE) respectively to ensure that Ineligible Persons are not employed or retained to provide services related to this Contract.


   b. The LEIE can be accessed at http://oig.hhs.gov/fraud/exclusions.asp.

3. If the Contractor receives Medi-Cal reimbursement, Contractor shall review the organization and all its employees, subcontractors, agents and physicians for eligibility against the California Department of Health Care Services Suspended and Ineligible Provider List to ensure that Ineligible Persons are not employed or retained to provide services related to this Contract.

   a. The Suspended and Ineligible Provider List can be accessed at http://files.medi-cal.ca.gov/pubsdoco/publications/bulletins/part1/part1home_m.asp.
4. Contractor shall certify that no staff member, officer, director, partner, or principal, or sub-contractor is "excluded" or "suspended" from any federal health care program, federally funded contract, state health care program or state funded contract. This certification shall be documented by completing the Attestation Regarding Ineligible / Excluded Persons (Attachment IV) at time of the initial contract execution and annually thereafter. The Attestation Regarding Ineligible / Excluded Persons shall be submitted to the following program and address:

DBH Office of Compliance
268 W. Hospitality Lane, Suite 400
San Bernardino, CA 92415

5. Contractor acknowledges that Ineligible Persons are precluded from providing Federal and State funded health care services by contract with County in the event that they are currently sanctioned or excluded by a Federal or State law enforcement regulatory or licensing agency.

XV. ARTICLE XVI ADMINISTRATIVE PROCEDURES is hereby renumbered as ARTICLE XVII.

XVI. ARTICLE XVII LAWS AND REGULATIONS is hereby renumbered as ARTICLE XVIII and is amended to read as follows:

A. Contractor agrees to comply with all relevant Federal and State laws and regulations inclusive of future revisions and comply with all applicable provisions of:

1. California Code of Regulations Title 9
2. California Code of Regulations Title 22

NOTE: Effective January 1, 2010, there is a change to the 2009 CalEMA Recipient Handbook, Section 2236.2 – Travel and Per Diem Policies. The State’s mileage reimbursement rate for use of a personal vehicle on project-related business has changed from 55 cents to 50 cents per mile.

In addition, mileage reimbursement is to cover the cost of gasoline, maintenance (oil, lube, and routine maintenance), insurance (liability, damage, comprehensive and collision coverage), licensing and registration, depreciation and all other costs associated with operation of a vehicle.

C. Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, regulations have been promulgated governing the privacy and security of individually identifiable health information (IIHI) otherwise defined as Protected Health Information (PHI) or electronic Protected Health Information (ePHI). The HIPAA Privacy and Security Regulations specify requirements with respect to contracts between an entity covered under the HIPAA Privacy and Security Regulations and its Business Associates. A Business Associate is defined as a party that performs certain services on behalf of, or provides certain services for, a Covered Entity and, in conjunction therewith, gains access to IIHI, or PHI or ePHI. Therefore, in accordance with the HIPAA Privacy and Security Regulations, Contractor shall comply with the terms and conditions as set forth in the attached Business Associate Agreement, hereby incorporated by this reference as Attachment I.
D. Program Integrity Requirements:

1. General Requirement. Pursuant to Title 42 C.F.R. Section 438.608, Contractor must have administrative and management arrangements or procedures, including a mandatory compliance plan that are designed to guard against fraud and abuse.

2. Compliance Program. County has established an Office of Compliance for purposes of ensuring adherence to all standards, rules and regulations related to the provision of services and expenditure of funds in Federal and State health care programs. If Contractor has established its own Compliance Program, Contractor shall provide documentation to County to evaluate whether the Program is consistent with the elements of a Compliance Program as required by the United States Department of Health and Human Services Office of Inspector General. Contractor’s program must include the designation of a compliance officer and compliance committee that are accountable to senior management and/or Board of Directors in addition to the specific requirements listed below.

Should the Contractor develop its own Compliance Plan, it shall submit the plan prior to implementation to the following DBH Program for review and approval:

DBH Office of Compliance
268 W. Hospitality Lane, Suite 400
San Bernardino, CA 92415

3. Specific Requirements. The administrative and management arrangements or procedures must include the following:

   a) Policies and Procedures: Written policies and procedures that articulate the Contractor’s commitment to comply with all applicable Federal and State standards. Contractor shall adhere to applicable DBH Policies and Procedures relating to the Compliance Program.

      i. Contractor shall maintain documentation, verification or acknowledgement that the Contractor’s employees, subcontractors, interns, volunteers, and members of Board of Directors are aware of these Policies and Procedures and the Compliance Program.

   b) Code of Conduct: Contractor shall either adopt the DBH Code of Conduct or develop its own Code of Conduct.

      i. If Contractor elects to develop and adopt its own Code of Conduct, such document shall be reviewed and approved, in writing, by the County.

      ii. Contractor shall distribute to all Contractor’s employees, subcontractors, interns, volunteers, and members of Board of Directors a copy of the Code of Conduct. Contractor shall document that such persons have received, read, understand and will abide by said Code.

   c) Excluded/Ineligible Persons: Contractor shall comply with Section XVI, Personnel of this contract related to excluded and ineligible status in Federal and State health care programs.

   d) Internal Monitoring and Auditing: Contractor shall be responsible for conducting internal monitoring and auditing of its agency. Internal monitoring and auditing include, but are not limited to billing and coding practices, licensure/credential/registration/waiver verification and adherence to County, State and Federal regulations.
i. Contractor shall take reasonable precaution to ensure that the coding of health care claims and billing for same are prepared and submitted in an accurate and timely manner and are consistent with Federal, State and County laws and regulations as well as DBH’s policies and/or agreements with third party payers. This includes compliance with Federal and State health care program regulations and procedures or instructions otherwise communicated by regulatory agencies including the Centers for Medicare and Medicaid Services or its agents.

ii. Contractor shall not submit false, fraudulent, inaccurate or fictitious claims for payment or reimbursement of any kind.

iii. Contractor shall bill only for those eligible services actually rendered which are also fully documented. When such services are coded, Contractor shall use only correct billing codes that accurately describe the services provided.

iv. Contractor shall act promptly to investigate and correct any problems or errors in coding of claims and billing, if and when, any such problems or errors are identified by the County, Contractor, outside auditors, etc.

v. Contractor shall ensure all service providers maintain current licensure/credential/registration/waiver status as required by the respective licensing Board. Contractors shall ensure the Staff Master is updated with the current employment and license/credential/registration/waiver status in order to bill for services.

e) **Response to Detected Offenses:** Contractor shall respond to and correct detected offenses relating to this contract promptly. Contractor shall be responsible for developing corrective action initiatives for offenses.

f) **Compliance Training:** Contractor is responsible for conducting Compliance Training, if it has a Compliance Program that is approved by DBH.

g) **Enforcement of Standards:** Contractor shall enforce compliance standards uniformly and through well-publicized disciplinary guidelines. If Contractor does not have a Compliance Program, the County requires the Contractor utilize DBH policies and procedures as guidelines when enforcing compliance standards.

h) **Communication:** Contractor shall establish and maintain effective lines of communication between the Compliance Officer for the Contractor and the employees. If a Contractor does not have an approved Compliance Program, the County shall provide use of its DBH Compliance Hotline for Contractor employees.

i) In accordance with the Termination paragraph of this Agreement, County may terminate this Agreement upon thirty (30) days written notice if Contractor fails to perform any of the terms of this Compliance paragraph. At County’s sole discretion, Contractor may be allowed up to thirty (30) days for corrective action.

XVII. ARTICLE XVIII PATIENTS’ RIGHTS is hereby renumbered as ARTICLE XIX.

XVIII. ARTICLE XIX CONFIDENTIALITY is hereby renumbered as ARTICLE XX.

XIX. ARTICLE XX ADMISSION POLICIES is hereby renumbered as ARTICLE XXI.

XX. ARTICLE XXI MEDICAL RECORDS is hereby renumbered as ARTICLE XXII, renamed as MEDICAL RECORDS/PROTECTED HEALTH INFORMATION, and amended to add the following:
C. Contractor agrees to furnish duly authorized representatives from County and State access to patient/client records.

D. The Protected Health Information under this Contract shall be and remain the property of the County. The Contractor agrees that it acquires no title or rights to the Protected Health Information.

E. In the event this contract is terminated, Contractor shall deliver or make available to DBH all data, reports, records and other such information and materials that may have been accumulated by Contractor under this Contract, whether completed, partially completed or in progress within 14 calendar days of said termination date.

1. If the Contractor shall cease operation of its business, the County shall store the medical records for all the Contractor's county funded clients.

2. The Contractor shall maintain responsibility for the medical records of non-county funded clients.

3. The Contractor shall be responsible for the boxing, indexing and delivery of any and all records that will be stored by the County medical records department.

4. Should the Contractor fail to relinquish the medical records to the County, the county shall report the contractor and its qualified professional personnel to the applicable licensing or certifying board(s).

5. Contractor shall return all electronic Protected Health Information received from or created by its subcontractors, employees or agents on behalf of the Contractor to the County for the sole purpose of final destruction from Contractor's electronic devices.

XXI. ARTICLE XXII QUALITY ASSURANCE/UTILIZATION REVIEW is hereby renumbered as ARTICLE XXIII.

XXII. ARTICLE XXIII INDEPENDENT CONTRACTOR STATUS is hereby renumbered as ARTICLE XXIV.

XXIII. ARTICLE XXIV SUBCONTRACTOR STATUS is hereby renumbered as ARTICLE XXV and amended to read as follows:

B. Excluded Parties List System (EPLS)

Contractor shall adhere to Licensing and Certification Section XV, Subsection B regarding Ineligible Persons or Excluded Parties.

XXIV. ARTICLE XXV ATTORNEY COSTS AND FEES is hereby renumbered as ARTICLE XXVI.

XXV. ARTICLE XXVI INDEMNIFICATION AND INSURANCE is hereby renumbered as ARTICLE XXVII.

XXVI. ARTICLE XXVII NONDISCRIMINATION AND GRIEVANCE AND COMPLAINT PROCEDURES is hereby renumbered as ARTICLE XXVIII and is amended to read as follows:

C. 2. Civil Rights Compliance

The Proposer shall develop and maintain internal policies and procedures to assure compliance with each factor outlined by State regulation. Consistent with the requirements of applicable federal or state law, the Contractor shall not engage in any unlawful discriminatory practices in the admission of beneficiaries, assignments of accommodations, treatment, evaluation, employment of personnel or in any other respect on the basis of race, color, gender, religion, marital status, national origin, age, sexual preference or mental or physical handicap. The Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally
assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977. The Contractor shall include the nondiscrimination and compliance provisions of this contract in all subcontracts to perform work under this contract. Notwithstanding other provisions of this section, the Contractor may require a determination of medical necessity pursuant to Title 9, CCR, Section 1820.205 Section 1830.205 or Section 1830.210, prior to providing covered services to a beneficiary.

XXVII. ARTICLE XXVIII DRUG FREE WORKPLACE is hereby renumbered as ARTICLE XXIX.

XXVIII. ARTICLE XXIX ASSIGNMENT is hereby renumbered as ARTICLE XXX.

XXIX. ARTICLE XXXI VENUE is hereby added to read as follows:

The venue of any action or claim brought by any party to the Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning the Contract is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

XXX. ARTICLE XXX CONCLUSION is hereby renumbered as ARTICLE XXXII.

XXXI. This amendment replaces Schedules A and B for the period effective October 1, 2009 through June 30, 2011 with the amended Schedule A and B for Fiscal Year 2009/2010 and adds Schedules A and B for Fiscal Year 2010/2011. Schedules A and B will be submitted to, and approved by, the Director or his designee at a later date.

XXXII. This amendment adds ADDENDUM VI OUTPATIENT CALWORKS LIFE SKILLS REQUIREMENTS.

XXXIII. This amendment replaces ATTACHMENT I BUSINESS ASSOCIATE AGREEMENT with the attached amended ATTACHMENT I.

XXXIV. This amendment adds ATTACHMENT IV ATTESTATION REGARDING INELIGIBLE / EXCLUDED PERSON

XXXV. All other terms, conditions and covenants in the basic agreement remain in full force and effect.

- - - - END OF AMENDMENT - - - -
COUNTY OF SAN BERNARDINO

By

Gary C. Ovitt, Chairman, Board of Supervisors

Dated: JUN 1, 2010

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

Laura H. Welch
Clerk of the Board of Supervisors
of the County of San Bernardino

By

(Stamp)

Approved as to Legal Form

Frank Saizas, County Counsel

Date 5-3-10

Reviewed by Contract Compliance

By

Kathleen Keesee

Date 6-3-10

Presented to BOS for Signature

By

Date 6/4/10

Name

Nancy Young

Title

CEO

Dated: 6-2-10

Address

1455 E. 3RD ST

San Bernardino, CA 92408

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

By

Authorized signature - sign in blue ink

(Print or type name of person signing contract)

(Print or Type)

(Please print or type)

(Print or Type)

(Please print or type)
OUTPATIENT-CALWORKS
LIFE SKILLS REQUIREMENTS

CONTRACTOR NAME: Social Action Community Health System, Inc.

A. The Alcohol and Drug Services CalWORKs Outreach team will provide staff to co-facilitate the
new Life Skills groups in the County of San Bernardino Transitional Assistance Departments
(TAD) offices. A CalWORKs/DBH Mental Health provider will also be onsite to co-facilitate the
groups. The Life Skills groups will be held in the TAD offices in Redlands, San Bernardino #07,
Fontana, Rancho Cucamonga, Victorville and Hesperia.

B. TIMEFRAMES
1. CalWORKs Outreach providers will have a staff member assigned to the respective TAD
offices beginning on January 4, 2010, Monday through Friday from 8:30 A.M. to 4:30 P.M.
2. A backup staff member from each CalWORKs Outreach provider will be on stand-by to
provide Life Skills group coverage in the event of any unforeseen circumstance such as
employee hardships, sick days and vehicle trouble.

NOTE: Cancelling a Life Skills group due to circumstances listed above is not an option;
coverage must be provided by the CalWORKs Outreach provider in order to fulfill our
contractual obligations.

C. TAD AGREEMENT
The new Life Skills groups provide by the CalWORKs/DBH Mental Health and Outreach
providers meet the Federal Core Activities conducive to the Work Participation Rates (WPR) of
TAD.

D. CALWORKS OUTREACH AGREEMENT
CalWORKs Outreach staff members will facilitate/co-facilitate Life Skills groups and provide
TAD customers with information such as:
- Budgeting
- Communication Skills
- Anger Management
- Relationships and Boundaries
Continue with regular CalWORKs Outreach throughout the County.

E. LIFE SKILLS GROUP GOALS
1. Through the Life Skills groups, identify potential clients for the CalWORKs DBH/Mental
Health program and/or Alcohol and Drug Services.
2. Administer an approved Alcohol and Drug Services and Behavioral Health screening to
identify a need for a treatment referral from TAD and/or the potential client’s Employment
Services Specialist.
3. Provide linkage and consultation between the potential client and the Employment Services
Specialist in order for a 711.56 treatment referral to be made and approved.

NOTE: A client must sign a CalWORKs Welfare to Work Activity contract before any
Mental Health or Alcohol and Drug services can be officially provided

---END OF ADDENDUM---
BUSINESS ASSOCIATE AGREEMENT

Except as otherwise provided in this Agreement, Social Action Community Health System, Inc., hereinafter referred to as BUSINESS ASSOCIATE, may use, access or disclose Protected Health Information to perform functions, activities or services for or on behalf of the COUNTY OF SAN BERNARDINO, hereinafter referred to as the COVERED ENTITY, as specified in this Agreement and the attached CONTRACT, provided such use, access or disclosure does not violate the Health Insurance Portability and Accountability Act (HIPAA), 42 United States Code (USC) 1320d et seq., and its implementing regulations, including but not limited to, 45 Code of Federal Regulations (CFR) Parts 160, 162, and 164, hereinafter referred to as the Privacy and Security Rules and patient confidentiality regulations, including but not limited to, California Civil Code 56 – 56.16, 56.20, 56.36, and Health and Safety Codes 1280.1, 1280.3, 1280.15, 130200 and the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (the "HITECH Act") and any regulations adopted or to be adopted pursuant to the HITECH Act that relate to the obligations of business associates. Business Associate recognizes and agrees it is obligated by law to meet the applicable provisions of the HITECH Act.

I. Definitions.

A. "Breach" means the acquisition, access, use or disclosure of Protected Health Information (PHI) in a manner not permitted under HIPAA (45 CFR Part 164, Subpart E), CA and/or Civil Code 56.36 which compromises the security or privacy of the Protected Health Information. For the purposes of HITECH, a breach shall not include:

1. Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of Covered Entity or the Business Associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the HIPAA Privacy Rule; or

2. Any inadvertent disclosure by a person who is authorized to access PHI at Covered Entity or Business Associate to another person authorized to access Protected Health Information at Covered Entity or Business Associate, respectively, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule; or

3. A disclosure of PHI where Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

B. "Business Associate" means with respect to a Covered Entity, a person who:

1. On behalf of such Covered Entity, but other than in the capacity of a member of the workforce of such Covered Entity performs or assists in the performance of:

   a) a function or activity involving the use or disclosure of Personally Identifiable Health Information, including claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or
b) any other function or activity regulated by the HIPAA Privacy or HIPAA Security Regulations; or

2. Provides, other than in the capacity of a member of the workforce of such Covered Entity, legal, actuarial, accounting, consulting, data Aggregation, management, administrative, accreditation or financial services to or for such Covered Entity where the provision of the service involves the disclosure of Personally Identifiable Health Information from such Covered Entity to the person.

C. "Patient/Client" means Covered Entity funded person who is the patient or client of the Business Associate.

D. "Covered Entity" means a health plan, a health care clearinghouse or a health care provider who transmits any health information in electronic form in connection with a transaction covered by HIPAA Privacy and Security Regulations.

E. "Data Aggregation" means, with respect to PHI created or received by a Business Associate in its capacity as the Business Associate of a Covered Entity, the combining of such PHI by the Business Associate with the PHI received by the Business Associate in its capacity as a Business Associate of another Covered Entity, to permit data analyses that relate to the health care operations of the respective Covered Entities.

F. "Discovered" means a breach shall be treated as discovered by Covered Entity or Business Associate as the first day on which such breach is known to such Covered Entity or Business Associate, respectively, (including any person, other than the individual committing the breach, that is an employee, officer or other agent of such entity or associate, respectively) or should reasonably have been known to such Covered Entity or Business Associate (or person) to have occurred.

G. "Electronic Protected Health Information" or "Electronic PHI" means PHI that is transmitted by or maintained in electronic media as defined in the HIPAA Security Regulations.


I. "HIPAA Privacy Rule" means the regulations promulgated under HIPAA by the United States Department of Health and Human Services to protect the privacy of Protected Health Information, including, but not limited to, 45 CFR Part 160 and 45 CFR Part 164, Subpart A and Subpart E.

J. "HIPAA Security Rule" means the regulations promulgated under HIPAA by the United States Department of Health and Human Services to protect the security of Electronic Protected Health Information, including, but not limited to, 45 CFR Part 160 and 45 CFR Part 164, Subpart A and Subpart C.

K. "HITECH Act" means the privacy, security and security Breach notification provisions applicable to Business Associate under Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH"), which is Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and any regulations promulgated thereunder.
L. "Personally Identifiable Health Information" means information that is a subset of health information, including demographic information collected from an individual, and;
1. is created or received by a health care provider, health plan, employer or health care clearinghouse; and
2. relates to the past, present or future physical or mental health 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
   a) that identifies the individual; or
   b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

M. "Protected Health Information" or "PHI" means Personally Identifiable Health Information transmitted or maintained in any form or medium that (i) is received by Business Associate from Covered Entity, (ii) Business Associate creates for its own purposes from Personally Identifiable Health Information that Business Associate received from Covered Entity, or (iii) is created, received, transmitted or maintained by Business Associate on behalf of Covered Entity. Protected Health Information excludes Personally Identifiable Health Information in education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. Section 1232(g), records described at 20 U.S.C. Section 1232g(a)(4)(B)(iv), and employment records held by the Covered Entity in its role as employer.

N. "Secured PHI" means PHI that was rendered unusable, unreadable or indecipherable to unauthorized individuals through the use of technologies or methodologies specified under Section 13402 (h)(2) of the HITECH Act under ARRA.

O. "Unsecured PHI" means PHI that is not secured through the use of a technology or methodology specified by the Secretary of the U.S. Department of Health and Human Services.

P. Any terms capitalized, but not otherwise defined, in this Agreement shall have the same meaning as those terms have under HIPAA, the HIPAA Privacy Rule, the HIPAA Security Rule and the HITECH Act.

II. Obligations and Activities of Business Associate.

A. Permitted Uses. Business Associate shall not use, access or further disclose Protected Health Information other than as permitted or required by this Agreement and as specified in the attached CONTRACT or as required by law. Further, Business Associate shall not use Protected Health Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act. Business Associate shall disclose to its employees, subcontractors, agents, or other third parties, and request from Covered Entity, only the minimum Protected Health Information necessary to perform or fulfill a specific function required or permitted hereunder.

B. Prohibited Uses and Disclosures. Business Associate shall not use or disclose Protected Health Information for fundraising or marketing purposes. Business Associate shall not disclose Protected Health Information to a health plan for
payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the Protected Health Information solely relates; 42 U.S.C. Section 17935(a) and 45 C.F.R. section 164.522(a)(1)(i)(A). Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Health Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to this Agreement.

C. Appropriate Safeguards. Business Associate shall implement the following administrative, physical, and technical safeguards in accordance with the Security Rule under 45 C.F.R., Sections 164.308, 164.310, 164.312 and 164.316:

1. Implement policies and procedures to prevent, detect, contain and correct security violations; identify the security official who is responsible for the development and implementation of the policies and procedures required by this subpart for the entity; implement a security awareness and training program for all members of its workforce; implement P&Ps to prevent those workforce members who do not have access from obtaining access to electronic PHI; implement policy and procedures to address security incidents; establish policies and procedures for responding to an emergency or other occurrence that damages systems that contain electronic PHI; and perform a periodic technical and nontechnical evaluation in response to environmental or operational changes affecting the security of electronic PHI that establishes the extent to which an entity's security policies and procedures meet the requirements of this subpart.

2. Implement policies and procedures to limit physical access to its electronic information systems and the facility or facilities in which they are housed, while ensuring that properly authorized access is allowed; implement policies and procedures that specify the proper functions to be performed, and the physical attributes of the surroundings of a specific workstation or class of workstations that can access electronic PHI; implement physical safeguards for all workstations that access electronic PHI; restrict access to authorized users; implement policies and procedures that govern the receipt and removal of hardware and electronic media that contain electronic PHI into and out of a facility and the movement of these items within the facility.

3. Implement technical policies and procedures for electronic information systems that maintain electronic PHI to allow access only to those persons or software programs that have been granted access rights as specified in 45 C.F.R., Section 164.208; implement hardware, software and/or procedural mechanisms that record and examine activity in information systems that contain use electronic PHI; implement policies and procedures to protect electronic PHI from improper alteration, destruction, unauthorized access or loss of integrity or availability.

D. Mitigation. Business Associate shall have procedures in place to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a
use, access or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

E. Reporting of Improper Access, Use or Disclosure or Breach. Business Associate shall report to Covered Entity's Office of Compliance any unauthorized use, access or disclosure of unsecured Protected Health Information or any other security incident with respect to Protected Health Information no later than two (2) business days upon the discovery of potential breach. Additionally, effective February 17, 2010, the Business Associate shall report to the Covered Entity's Office of Compliance any breach consistent with the regulations promulgated under HITECH by the United States Department of Health and Human Services, 45 CFR Part 164, Subpart D, within two (2) business days of discovery of the potential breach. Upon discovery of the potential breach, the Business Associate shall complete the following actions:

1. Provide Covered Entity's Office of Compliance with the following information to include but not limited to:
   a) Date the potential breach occurred;
   b) Date the potential breach was discovered;
   c) Number of staff, employees, subcontractors, agents or other third parties and the titles of each person allegedly involved;
   d) Number of potentially affected patients/clients; and
   e) Description of how the potential breach allegedly occurred.

2. Conduct and document a risk assessment by investigating without reasonable delay and in no case later than twenty (20) calendar days of discovery of the potential breach to determine the following:
   a) Whether there has been an impermissible use, acquisition, access or disclosure of PHI under the Privacy Rule;
   b) Whether an impermissible use or disclosure compromises the security or privacy of the PHI by posing a significant risk of financial, reputational or other harm to the patient/client; and
   c) Whether the incident falls under one of the breach exceptions.

3. Provide completed risk assessment and investigation documentation to Covered Entity's Office of Compliance within twenty-five (25) calendar days of discovery of the potential breach with decision whether a breach has occurred:
   a) If a breach has not occurred, notification to patient/client(s) is not required.
   b) If a breach has occurred, notification to the patient/client(s) is required, and Business Associate must provide Covered Entity with affected patient/client names and contact information so the Covered Entity can provide notification.

4. Make available to Covered Entity and governing State and Federal agencies in a time and manner designated by Covered Entity or governing State and Federal agencies, any policies, procedures, internal practices and records relating to a potential breach for the purposes of
audit or should the Covered Entity reserve the right to conduct its own investigation and analysis.

F. Permitted Disclosures. If Business Associate discloses Protected Health Information to a third party, including any agent or subcontractor, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from such third party that such Protected Health Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) an agreement from such third party to immediately notify Business Associate of any breach of confidentiality of the Protected Health Information, to the extent it has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)].

G. Access to Protected Health Information. Business Associate shall provide access to Protected Health Information in a Designated Record Set to Covered Entity or to an Individual, at the request or direction of Covered Entity and in the time and manner designated by the Covered Entity, as required by of 45 CFR 164.524.

H. Amendment of Protected Health Information. If Business Associate maintains a Designated Record Set on behalf of the Covered Entity, Business Associate shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to, pursuant to 45 CFR 164.526, in the time and manner designated by the Covered Entity.

I. Access to Records. Business Associate shall make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use, access and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, and/or to the Secretary for the U.S. Department of Health and Human Services, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the Privacy and Security Rules and patient confidentiality regulations.

J. Audit and Monitor. Covered Entity reserves the right to audit and monitor all records, policies, procedures and other pertinent items related to the use, access and disclosure of Protected Health Information of the Business Associate as requested to ensure Business Associate is in compliance with this Agreement. Covered Entity has the right to monitor Business Associate in the delivery of services provided under this Agreement. Business Associate shall give full cooperation in any auditing or monitoring conducted.

K. Accounting for Disclosures. Business Associate shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information. Further, Business Associate shall provide to Covered Entity or an Individual, in the time and manner designated by the Covered Entity, information collected in accordance with provision (i), above, to permit Covered Entity to respond to a request by the Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528 and the HITECH Act.
L. Destruction of Protected Health Information. Upon termination of this Agreement, Business Associate shall return all Protected Health Information required to be retained and return or destroy all other Protected Health Information received from the Covered Entity, or created or received by the Business Associate or its subcontractors, employees or agents on behalf of the Covered Entity. In the event the Business Associate determines that returning the Protected Health Information is not feasible, the Business Associate shall provide the Covered Entity with written notification of the conditions that make return not feasible. Business Associate further agrees to extend any and all protections, limitations, and restrictions contained in this Agreement, to any Protected Health Information retained by Business Associate or its subcontractors, employees or agents after the termination of this Agreement, and to limit any further use, access or disclosures to the purposes that make the return or destruction of the Protected Health Information infeasible.

M. Breach Pattern or Practice by Covered Entity. Pursuant to 42 U.S.C. Section 17934(b), if the Business Associate knows of a pattern of activity or practice of the Covered Entity that constitutes a material breach or violation of the Covered Entity's obligations under this Agreement, the Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the Business Associate must terminate the Agreement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS.

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

1. Postage;
2. Alternative means of notice;
3. Media notification; and
4. Credit monitoring services.

III. Specific Use and Disclosure Provisions.

A. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

B. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law.

C. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation service to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).

D. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 42 CFR 164.502(j)(1).
IV. Obligations of Covered Entity.

A. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use, access or disclosure of Protected Health Information.

B. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an individual to use, access or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use, access or disclosure of Protected Health Information.

C. Covered Entity shall notify Business Associate of any restriction to the use, access or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use, access or disclosure of Protected Health Information.

D. Covered Entity shall complete the following in the event that the Covered Entity has determined that Business Associate has a breach:

1. Determine appropriate method of notification to the patient/client(s) regarding a breach as outlined under Section 13402(e) of the HITECH Act;

2. Send notification to the patient/client(s) without unreasonable delay but in no case later than sixty (60) days of discovery of the breach with at least the minimal required elements as follows:
   a) Brief description of what happened, including the date of the breach and the date of discovery;
   b) Description of the types of unsecured PHI involved in the breach (such as name, date of birth, home address, Social Security number, medical insurance, etc.);
   c) Steps patient/client(s) should take to protect themselves from potential harm resulting from the breach;
   d) Brief description of what is being done to investigate the breach, to mitigate harm to patient/client(s) and to protect against any further breaches; and
   e) Contact procedures for patient/client(s) to ask questions or learn additional information, which must include a toll-free telephone number, an e-mail address, Web site or postal address.

3. Determine if notice is required to Secretary of the U.S. Department of Health and Human Services.

4. Submit breach information to the Secretary of the U.S. Department of Health and Human Services within the required timeframe, in accordance with 164.408(b).

V. General Provisions.

A. Remedies. Business Associate agrees that Covered Entity shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which Covered Entity may have at law or in equity in the event of an
unauthorized use, access or disclosure of Protected Health Information by Business Associate or any agent or subcontractor of Business Associate that received Protected Health Information from Business Associate.

B. **Ownership.** The Protected Health Information shall be and remain the property of the Covered Entity. Business Associate agrees that it acquires no title or rights to the Protected Health Information.

C. **Regulatory References.** A reference in this Agreement to a section in the Privacy and Security Rules and patient confidentiality regulations means the section as in effect or as amended.

D. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act and patient confidentiality regulations.

E. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules and patient confidentiality regulations.

The undersigned affirms that he/she is a duly authorized representative of the Business Associate for which he/she is signing and has the authority to execute this Agreement on behalf of the Business Associate.

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**Covered Entity**

COUNTY OF SAN BERNARDINO

**Business Associate**

Social Action Community Health System, Inc.

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**Name**

Allan Rawland, MSW, ACSW

**Name**

Nancy Young

**Title**

Director, Department of Behavioral Health

**Title**

CEO
ATTACHMENT IV

ATTESTATION REGARDING INELIGIBLE / EXCLUDED PERSONS

Contractor shall:

To the extent consistent with Section XVI, Licensing and Certification, of this Contract, comply with regulations found in Title 42 Code of Federal Regulations (CFR), Parts 1001 and 1002, et al regarding exclusion from participation in federal and state funded programs, which provide in pertinent part:

1. Contractor certifies that it is not presently excluded from participation in federal and state funded health care programs, nor is there an investigation presently pending or recently concluded which is likely to result in exclusion from any federal or state funded health care program, nor is the Contractor otherwise likely to be found by a federal and state agency to be ineligible to provide goods or services.

2. As the official responsible for the administration of Contractor certifies that all of its officers, employees, agents, sub-contractors and/or persons having five percent (5%) or more of direct or indirect ownership or control interest of the Contractor are not presently excluded from participation in any federal or state funded health care programs, nor is there an investigation presently pending or recently concluded of any such officers, employees, agents and/or sub-contractors which is likely to result in an exclusion from any federal and state funded health care program, nor are any of its officers, employees, agents and/or sub-contractors otherwise likely to be found by a federal or state agency to be ineligible to provide goods or services.

3. Contractor certifies it has reviewed, at minimum on an annual basis, the following lists in determining the organization nor its officers, employees, agents, sub-contractors and/or persons having five percent (5%) or more of direct or indirect ownership or control interest of the Contractor are not presently excluded from participation in any federal or state funded health care programs:
   a. OIG’s List of Excluded Individuals/Entities (LEIE).
   b. United States General Service Administration’s Excluded Parties List System (EPLS).
   c. California Department of Health Care Services Suspended and Ineligible Provider List, if receives Drug Medi-Cal reimbursement.

4. Contractor certifies that it shall notify DBH within ten (10) business days in writing of:
   a. Any event, including an investigation, that would require Contractor or any of its officers, employees, agents and/or sub-contractors exclusion or suspension under federal or state funded health care programs, or
   b. Any suspension or exclusionary action taken by an agency of the federal or state government against Contractor, or one or more of its officers, employees, agents and/or sub-contractors, barring it or its officers, employees, agents and/or sub-contractors from providing goods or services for which federal or state funded healthcare program payment may be made.

Name of authorized official ____________________________  
Signature of authorized official ____________________________  
Date ___________