

AGREEMENT

35724

THIS AGREEMENT is made and entered, in duplicate, as of June 29, 2020, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on May 21, 2019, by and between THE CHILDREN'S CLINIC 'SERVING CHILDREN AND THEIR FAMILIES', DBA TCC FAMILY HEALTH, a California nonprofit corporation ("Contractor"), with offices located at 701 E. 28th Street, Suite 200, Long Beach, CA 90806 and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with Hepatitis C Prevention, Testing, and Treatment which includes, but is not limited to, testing navigation, linkages to care, care coordination, and treatment, among vulnerable and undeserved clients at high risk for Hepatitis C, with an emphasis on priority settings ("Project"); and

WHEREAS, City has selected Contractor in accordance with City's administrative procedures using Request for Qualifications HE18-099 ("RFQ") to acquire On-Call Public Health & Human Services Community Partners, incorporated herein by this reference, and through a limited Request for Proposal ("RFP") from the vendors identified through the Request for Qualifications process as qualified, referenced as readily available vendors with the appropriate skillset and subject matter expertise to provide public health programming and/or content-specific technical assistance, the City has determined that Contractor and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Contractor perform these specialized services, and Contractor is willing and able to do so on the terms and conditions in this Agreement;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4511

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1. SCOPE OF WORK OR SERVICES.

A. Contractor shall furnish specialized services more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and City shall pay for these services in the manner described below, not to exceed Ninety Five Thousand Two Hundred Fifty One Dollars (\$95,251) annually, at the rates or charges shown in Exhibit "B".

B. City shall pay Contractor in due course of payments following receipt from Contractor and approval by City of invoices showing the services or task performed, the time expended (if billing is hourly), and the name of the Project. Contractor shall certify on the invoices that Contractor has performed the services in full conformance with this Agreement and is entitled to receive payment. Each invoice shall be accompanied by a progress report indicating the progress to date of services performed and covered by the invoice, including a brief statement of any Project problems and potential causes of delay in performance, and listing those services that are projected for performance by Contractor during the next invoice cycle. Where billing is done and payment is made on an hourly basis, the parties acknowledge that this arrangement is either customary practice for Contractor's profession, industry or business, or is necessary to satisfy audit and legal requirements which may arise due to the fact that City is a municipality.

C. Contractor represents that Contractor has obtained all necessary information on conditions and circumstances that may affect its performance and has conducted site visits, if necessary.

D. By executing this Agreement, Contractor warrants that Contractor (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. It the services involve work upon

1 any site, Contractor warrants that Contractor has or will investigate the site and is
2 or will be fully acquainted with the conditions there existing, prior to commencement
3 of services set forth in this Agreement. Should Contractor discover any latent or
4 unknown conditions that will materially affect the performance of the services set
5 forth in this Agreement, Contractor must immediately inform the City of that fact and
6 may not proceed except at Contractor's risk until written instructions are received
7 from the City.

8 E. Contractor must adopt reasonable methods during the life of
9 the Agreement to furnish continuous protection to the work, and the equipment,
10 materials, papers, documents, plans, studies and other components to prevent
11 losses or damages, and will be responsible for all damages, to persons or property,
12 until acceptance of the work by the City, except those losses or damages as may
13 be caused by the City's own negligence.

14 F. CAUTION: Contractor shall not begin work until this
15 Agreement has been signed by both parties and until Contractor's evidence of
16 insurance has been delivered to and approved by City.

17 2. TERM. The term of this Agreement shall commence at midnight on
18 July 1, 2020, and shall terminate at 11:59 p.m. on June 30, 2021, unless sooner terminated
19 as provided in this Agreement, or unless the services or the Project is completed sooner.
20 The City shall have the option to extend the term for three (3) additional one-year periods,
21 at the discretion of the City Manager.

22 3. COORDINATION AND ORGANIZATION.

23 A. Contractor shall coordinate its performance with City's
24 representative, if any, named in Exhibit "C", attached to this Agreement and
25 incorporated by this reference. Contractor shall advise and inform City's
26 representative of the work in progress on the Project in sufficient detail so as to
27 assist City's representative in making presentations and in holding meetings on the
28 Project. City shall furnish to Contractor information or materials, if any, described in

1 Exhibit "D", attached to this Agreement and incorporated by this reference, and shall
2 perform any other tasks described in the Exhibit.

3 B. The parties acknowledge that a substantial inducement to City
4 for entering this Agreement was and is the reputation and skill of Contractor's key
5 employee, named in Exhibit "E" attached to this Agreement and incorporated by this
6 reference. City shall have the right to approve any person proposed by Contractor
7 to replace that key employee.

8 4. INDEPENDENT CONTRACTOR. In performing its services,
9 Contractor is and shall act as an independent contractor and not an employee,
10 representative or agent of City. Contractor shall have control of Contractor's work and the
11 manner in which it is performed. Contractor shall be free to contract for similar services to
12 be performed for others during this Agreement; provided, however, that Contractor acts in
13 accordance with Section 9 and Section 11 of this Agreement. Contractor acknowledges
14 and agrees that (a) City will not withhold taxes of any kind from Contractor's compensation;
15 (b) City will not secure workers' compensation or pay unemployment insurance to, for or
16 on Contractor's behalf; and (c) City will not provide and Contractor is not entitled to any of
17 the usual and customary rights, benefits or privileges of City employees. Contractor
18 expressly warrants that neither Contractor nor any of Contractor's employees or agents
19 shall represent themselves to be employees or agents of City.

20 5. INSURANCE.

21 A. As a condition precedent to the effectiveness of this
22 Agreement, Contractor shall procure and maintain, at Contractor's expense for the
23 duration of this Agreement, from insurance companies that are admitted to write
24 insurance in California and have ratings of or equivalent to A:V by A.M. Best
25 Company or from authorized non-admitted insurance companies subject to Section
26 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII
27 by A.M. Best Company, the following insurance:
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1 (a) Commercial general liability insurance (equivalent in scope to
2 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than
3 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This
4 coverage shall include but not be limited to broad form contractual liability,
5 cross liability, independent contractors liability, and products and completed
6 operations liability. City, its boards and commissions, and their officials,
7 employees and agents shall be named as additional insureds by
8 endorsement (on City's endorsement form or on an endorsement equivalent
9 in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85), and this insurance
10 shall contain no special limitations on the scope of protection given to City,
11 its boards and commissions, and their officials, employees and agents. This
12 policy shall be endorsed to state that the insurer waives its right of
13 subrogation against City, its boards and commissions, and their officials,
14 employees and agents.

15 (b) Workers' Compensation insurance as required by the California
16 Labor Code and employer's liability insurance in an amount not less than
17 \$1,000,000. This policy shall be endorsed to state that the insurer waives
18 its right of subrogation against City, its boards and commissions, and their
19 officials, employees and agents.

20 (c) Professional liability or errors and omissions insurance in an
21 amount not less than \$1,000,000 per claim.

22 (d) Commercial automobile liability insurance (equivalent in scope
23 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an
24 amount not less than \$500,000 combined single limit per accident.

25 B. Any self-insurance program, self-insured retention, or
26 deductible must be separately approved in writing by City's Risk Manager or
27 designee and shall protect City, its officials, employees and agents in the same
28 manner and to the same extent as they would have been protected had the policy

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or policies not contained retention or deductible provisions.

C. Each insurance policy shall be endorsed to state that coverage shall not be reduced, non-renewed or canceled except after thirty (30) days prior written notice to City, shall be primary and not contributing to any other insurance or self-insurance maintained by City, and shall be endorsed to state that coverage maintained by City shall be excess to and shall not contribute to insurance or self-insurance maintained by Contractor. Contractor shall notify City in writing within five (5) days after any insurance has been voided by the insurer or cancelled by the insured.

D. If this coverage is written on a "claims made" basis, it must provide for an extended reporting period of not less than one hundred eighty (180) days, commencing on the date this Agreement expires or is terminated, unless Contractor guarantees that Contractor will provide to City evidence of uninterrupted, continuing coverage for a period of not less than three (3) years, commencing on the date this Agreement expires or is terminated.

E. Contractor shall require that all sub-contractors or contractors that Contractor uses in the performance of these services maintain insurance in compliance with this Section unless otherwise agreed in writing by City's Risk Manager or designee.

F. Prior to the start of performance, Contractor shall deliver to City certificates of insurance and the endorsements for approval as to sufficiency and form. In addition, Contractor shall, within thirty (30) days prior to expiration of the insurance, furnish to City certificates of insurance and endorsements evidencing renewal of the insurance. City reserves the right to require complete certified copies of all policies of Contractor and Contractor's sub-Contractors and contractors, at any time. Contractor shall make available to City's Risk Manager or designee all books, records and other information relating to this insurance, during normal business hours.

1 G. Any modification or waiver of these insurance requirements
2 shall only be made with the approval of City's Risk Manager or designee. Not more
3 frequently than once a year, City's Risk Manager or designee may require that
4 Contractor, Contractor's sub-Contractors and contractors change the amount,
5 scope or types of coverages required in this Section if, in his or her sole opinion, the
6 amount, scope or types of coverages are not adequate.

7 H. The procuring or existence of insurance shall not be construed
8 or deemed as a limitation on liability relating to Contractor's performance or as full
9 performance of or compliance with the indemnification provisions of this Agreement.

10 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
11 contemplates the personal services of Contractor and Contractor's employees, and the
12 parties acknowledge that a substantial inducement to City for entering this Agreement was
13 and is the professional reputation and competence of Contractor and Contractor's
14 employees. Contractor shall not assign its rights or delegate its duties under this
15 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval
16 of City, except that Contractor may with the prior approval of the City Manager of City,
17 assign any moneys due or to become due Contractor under this Agreement. Any
18 attempted assignment or delegation shall be void, and any assignee or delegate shall
19 acquire no right or interest by reason of an attempted assignment or delegation.
20 Furthermore, Contractor shall not subcontract any portion of its performance without the
21 prior approval of the City Manager or designee, or substitute an approved sub-Contractor
22 or contractor without approval prior to the substitution. Nothing stated in this Section shall
23 prevent Contractor from employing as many employees as Contractor deems necessary
24 for performance of this Agreement.

25 7. CONFLICT OF INTEREST. Contractor, by executing this Agreement,
26 certifies that, at the time Contractor executes this Agreement and for its duration,
27 Contractor does not and will not perform services for any other client which would create a
28 conflict, whether monetary or otherwise, as between the interests of City and the interests

1 of that other client. And, Contractor shall obtain similar certifications from Contractor's
2 employees, sub-Contractors and contractors.

3 8. MATERIALS. Contractor shall furnish all labor and supervision,
4 supplies, materials, tools, machinery, equipment, appliances, transportation and services
5 necessary to or used in the performance of Contractor's obligations under this Agreement,
6 except as stated in Exhibit "D".

7 9. OWNERSHIP OF DATA. All materials, information and data
8 prepared, developed or assembled by Contractor or furnished to Contractor in connection
9 with this Agreement, including but not limited to documents, estimates, calculations,
10 studies, maps, graphs, charts, computer disks, computer source documentation, samples,
11 models, reports, summaries, drawings, designs, notes, plans, information, material and
12 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,
13 and City shall have the unrestricted right to use and disclose the Data in any manner and
14 for any purpose without payment of further compensation to Contractor. Copies of Data
15 may be retained by Contractor but Contractor warrants that Data shall not be made
16 available to any person or entity for use without the prior approval of City. This warranty
17 shall survive termination of this Agreement for five (5) years.

18 10. TERMINATION. Either party shall have the right to terminate this
19 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days
20 prior notice to the other party. In the event of termination under this Section, City shall pay
21 Contractor for services satisfactorily performed and costs incurred up to the effective date
22 of termination for which Contractor has not been previously paid. The procedures for
23 payment in Section 1.B. with regard to invoices shall apply. On the effective date of
24 termination, Contractor shall deliver to City all Data developed or accumulated in the
25 performance of this Agreement, whether in draft or final form, or in process. And,
26 Contractor acknowledges and agrees that City's obligation to make final payment is
27 conditioned on Contractor's delivery of the Data to City.

28 11. CONFIDENTIALITY. Contractor shall keep all Data confidential and

1 shall not disclose the Data or use the Data directly or indirectly, other than in the course of
2 performing its services, during the term of this Agreement and for five (5) years following
3 expiration or termination of this Agreement. In addition, Contractor shall keep confidential
4 all information, whether written, oral or visual, obtained by any means whatsoever in the
5 course of performing its services for the same period of time. Contractor shall not disclose
6 any or all of the Data to any third party, or use it for Contractor's own benefit or the benefit
7 of others except for the purpose of this Agreement.

8 12. BREACH OF CONFIDENTIALITY. Contractor shall not be liable for a
9 breach of confidentiality with respect to Data that: (a) Contractor demonstrates Contractor
10 knew prior to the time City disclosed it; or (b) is or becomes publicly available without
11 breach of this Agreement by Contractor; or (c) a third party who has a right to disclose does
12 so to Contractor without restrictions on further disclosure; or (d) must be disclosed pursuant
13 to subpoena or court order.

14 13. ADDITIONAL SERVICES. The City has the right at any time during
15 the performance of the services, without invalidating this Agreement, to order extra work
16 beyond that specified in the RFQ or make changes by altering, adding to or deducting from
17 the work. No extra work may be undertaken unless a written order is first given by the City,
18 incorporating any adjustment in the Agreement Sum, or the time to perform this Agreement.
19 Any increase in compensation of ten percent (10%) or less of the Agreement Sum, or in
20 the time to perform of One Hundred Eighty (180) days or less, may be approved by the
21 City Representative. Any greater increases, taken either separately or cumulatively, must
22 be approved by the City Council. It is expressly understood by Contractor that the
23 provisions of this paragraph do not apply to services specifically set forth in the RFQ or
24 reasonably contemplated in the RFQ. Contractor acknowledges that it accepts the risk
25 that the services to be provided pursuant to the RFQ may be more costly or time consuming
26 than Contractor anticipates and that Contractor will not be entitled to additional
27 compensation for the services set forth in the RFQ.

28 14. RETENTION OF FUNDS. Contractor authorizes the City to deduct

1 from any amount payable to Contractor (whether or not arising out of this Agreement) any
2 amounts the payment of which may be in dispute or that are necessary to compensate the
3 City for any losses, costs, liabilities or damages suffered by the City, and all amounts for
4 which the City may be liable to third parties, by reason of Contractor's acts or omissions in
5 performing or failing to perform Contractor's obligations under this Agreement. In the event
6 that any claim is made by a third party, the amount or validity of which is disputed by
7 Contractor, or any indebtedness exists that appears to be the basis for a claim of lien, the
8 City may withhold from any payment due, without liability for interest because of the
9 withholding, an amount sufficient to cover the claim. The failure of the City to exercise the
10 right to deduct or to withhold will not, however, affect the obligations of Contractor to insure,
11 indemnify and protect the City as elsewhere provided in this Agreement.

12 15. AMENDMENT. This Agreement, including all Exhibits, shall not be
13 amended, nor any provision or breach waived, except in writing signed by the parties which
14 expressly refers to this Agreement.

15 16. LAW. This Agreement shall be construed in accordance with the laws
16 of the State of California, and the venue for any legal actions brought by any party with
17 respect to this Agreement shall be the County of Los Angeles, State of California for state
18 actions and the Central District of California for any federal actions. Contractor shall cause
19 all work performed in connection with construction of the Project to be performed in
20 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,
21 county or municipal governments or agencies (including, without limitation, all applicable
22 federal and state labor standards, including the prevailing wage provisions of sections 1770
23 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any fire
24 marshal, health officer, building inspector, or other officer of every governmental agency
25 now having or hereafter acquiring jurisdiction. If any part of this Agreement is found to be
26 in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in
27 conflict with any applicable laws, but the remainder of the Agreement will remain in full
28 force and effect.

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17. PREVAILING WAGES.

A. Consultant agrees that all public work (as defined in California Labor Code section 1720) performed pursuant to this Agreement (the "Public Work"), if any, shall comply with the requirements of California Labor Code sections 1770 *et seq.* City makes no representation or statement that the Project, or any portion thereof, is or is not a "public work" as defined in California Labor Code section 1720.

B. In all bid specifications, contracts and subcontracts for any such Public Work, Consultant shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification or type of worker needed to perform the Public Work, and shall include such rates in the bid specifications, contract or subcontract. Such bid specifications, contract or subcontract must contain the following provision: "It shall be mandatory for the contractor to pay not less than the said prevailing rate of wages to all workers employed by the contractor in the execution of this contract. The contractor expressly agrees to comply with the penalty provisions of California Labor Code section 1775 and the payroll record keeping requirements of California Labor Code section 1771."

18. ENTIRE AGREEMENT. This Agreement, including all Exhibits, constitutes the entire understanding between the parties and supersedes all other agreements, oral or written, with respect to the subject matter in this Agreement.

19. INDEMNITY.

A. Consultant shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys' fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or

1 in part, out of or in connection with (1) Consultant's breach or failure to comply with
2 any of its obligations contained in this Agreement, including all applicable federal
3 and state labor requirements including, without limitation, the requirements of
4 California Labor Code section 1770 *et seq.* or (2) negligent or willful acts, errors,
5 omissions or misrepresentations committed by Consultant, its officers, employees,
6 agents, subcontractors, or anyone under Consultant's control, in the performance
7 of work or services under this Agreement (collectively "Claims" or individually
8 "Claim").

9 B. In addition to Consultant's duty to indemnify, Consultant shall
10 have a separate and wholly independent duty to defend Indemnified Parties at
11 Consultant's expense by legal counsel approved by City, from and against all
12 Claims, and shall continue this defense until the Claims are resolved, whether by
13 settlement, judgment or otherwise. No finding or judgment of negligence, fault,
14 breach, or the like on the part of Consultant shall be required for the duty to defend
15 to arise. City shall notify Consultant of any Claim, shall tender the defense of the
16 Claim to Consultant, and shall assist Consultant, as may be reasonably requested,
17 in the defense.

18 C. If a court of competent jurisdiction determines that a Claim was
19 caused by the sole negligence or willful misconduct of Indemnified Parties,
20 Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the
21 court determines sole negligence by the Indemnified Parties, or (2) reduced by the
22 percentage of willful misconduct attributed by the court to the Indemnified Parties.

23 D. The provisions of this Section shall survive the expiration or
24 termination of this Agreement.

25 20. FORCE MAJEURE. If any party fails to perform its obligations
26 because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain
27 labor or materials or reasonable substitutes for labor materials, governmental restrictions,
28 governmental regulations, governmental controls, judicial orders, enemy or hostile

1 governmental action, civil commotion, fire or other casualty, or other causes beyond the
2 reasonable control of the party obligated to perform, then that party's performance will be
3 excused for a period equal to the period of such cause for failure to perform.

4 21. AMBIGUITY. In the event of any conflict or ambiguity between this
5 Agreement and any Exhibit, the provisions of this Agreement shall govern.

6 22. NONDISCRIMINATION.

7 A. In connection with performance of this Agreement and subject
8 to applicable rules and regulations, Contractor shall not discriminate against any
9 employee or applicant for employment because of race, religion, national origin,
10 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or
11 disability. Contractor shall ensure that applicants are employed, and that employees
12 are treated during their employment, without regard to these bases. These actions
13 shall include, but not be limited to, the following: employment, upgrading, demotion
14 or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay
15 or other forms of compensation; and selection for training, including apprenticeship.

16 23. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in
17 accordance with the provisions of the Ordinance, this Agreement is subject to the
18 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the
19 Long Beach Municipal Code, as amended from time to time.

20 A. During the performance of this Agreement, the Consultant
21 certifies and represents that the Consultant will comply with the EBO. The
22 Consultant agrees to post the following statement in conspicuous places at its place
23 of business available to employees and applicants for employment:

24 "During the performance of a contract with the City of Long Beach, the
25 Consultant will provide equal benefits to employees with spouses and its
26 employees with domestic partners. Additional information about the City of
27 Long Beach's Equal Benefits Ordinance may be obtained from the City of
28 Long Beach Business Services Division at 562-570-6200."

1 B. The failure of the Consultant to comply with the EBO will be
2 deemed to be a material breach of the Agreement by the City.

3 C. If the Consultant fails to comply with the EBO, the City may
4 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or
5 to become due under the Agreement may be retained by the City. The City may
6 also pursue any and all other remedies at law or in equity for any breach.

7 D. Failure to comply with the EBO may be used as evidence
8 against the Consultant in actions taken pursuant to the provisions of Long Beach
9 Municipal Code 2.93 et seq., Contractor Responsibility.

10 E. If the City determines that the Consultant has set up or used its
11 contracting entity for the purpose of evading the intent of the EBO, the City may
12 terminate the Agreement on behalf of the City. Violation of this provision may be
13 used as evidence against the Consultant in actions taken pursuant to the provisions
14 of Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

15 24. NOTICES. Any notice or approval required by this Agreement shall
16 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
17 postage prepaid, addressed to Contractor at the address first stated above, and to City at
18 411 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy
19 to the City Clerk at the same address. Notice of change of address shall be given in the
20 same manner as stated for other notices. Notice shall be deemed given on the date
21 deposited in the mail or on the date personal delivery is made, whichever occurs first.

22 25. COVENANT AGAINST CONTINGENT FEES. Contractor warrants
23 that Contractor has not employed or retained any entity or person to solicit or obtain this
24 Agreement and that Contractor has not paid or agreed to pay any entity or person any fee,
25 commission or other monies based on or from the award of this Agreement. If Contractor
26 breaches this warranty, City shall have the right to terminate this Agreement immediately
27 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments
28 due under this Agreement or otherwise recover the full amount of the fee, commission or

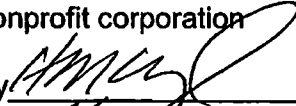
OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4511

1 protect the privacy and provide for the security of protected health information in
2 compliance with the Health Information in Compliance with the Health Insurance Portability
3 and Accountability Act of 1996 (HIPPA) and the Health Information Technology for
4 Economic and Clinical Health Act (HITECH Act) through the Business Associate
5 Agreement, attached to this Agreement as Exhibit "F" and incorporated by this reference.


6 IN WITNESS WHEREOF, the parties have caused this document to be duly
7 executed with all formalities required by law as of the date first stated above.

8 THE CHILDREN'S CLINIC 'SERVING
9 CHILDREN AND THEIR FAMILIES', DBA
10 TCC FAMILY HEALTH, a California
nonprofit corporation

11 _____, 2020

By 
Name Harold M. Val Dyle, Jr.
Title Board President

13 _____, 2020

By 
Name Elisa Nicholas
Title Chief Executive Officer

"Contractor"

CITY OF LONG BEACH, a municipal
corporation

18 November 23, 2020

By Sandra F. Iatun
City Manager

"City"

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

21 This Agreement is approved as to form on Nov. 17, 2020.

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CHARLES PARKIN, City Attorney

By 
Deputy

EXHIBIT "A"



RFQ HE18-099 PART II - Request for Quotes for Projects > \$25,000

The City of Long Beach (COLB) is soliciting quotes to identify firms to partner as subcontractors. A single project may require one or more subcontractors to provide programmatic or technical expertise. Providing a quote does not guarantee selection. This Request for Quotes is not transferable and is subject to the same terms and conditions listed in RFQ HE18-099. Selected contractor(s) will be notified in writing.

SCOPE OF WORK *To Be Completed by COLB Program Staff*

Project Name: Hepatitis C Prevention, Testing, and Treatment

Part II: HCV testing navigation, linkages to care, care coordination, and treatment, among vulnerable and undeserved clients at high risk for HCV, with an emphasis on priority settings

A. Conduct or ensure the provision of HCV antibody testing for persons at high risk for HCV infection, with an emphasis on high priority settings

- Description of priority populations and settings selected for HCV antibody testing submitted to CDPH
- Number of people tested for HCV antibody
- Number and percent of people tested for HCV antibody with a reactive result
- o Target: 10 percent

B. Conduct or ensure the provision of HCV ribonucleic acid (RNA) testing (needed to diagnose current hepatitis C infection)

- Description of activities to ensure people with a positive HCV antibody test result receive follow up HCV RNA testing submitted to CDPH
- Number and percent of people with a reactive HCV antibody test result who receive follow up HCV RNA testing
- o Target: 65 percent
- Number of people tested for HCV RNA

Is an interview or oral presentation needed? YES Tentative Date: _____
NO

If a section(s) below is checked, the applicant must complete the corresponding section(s) on the following pages, and upload the entire document to PlanetBids by 5:00 pm on 2/21/2020 _____:

- Relevant programmatic logic model(s)
- Scope of work, including description of expected outcomes, goals, objectives, process outputs, and activities to measure impact
- Staff qualifications and availability

Part (B) – Budget: (2 pages max)

- Rate sheet
- Proposed budget and budget narrative

For questions regarding this solicitation, please contact Belinda Prado at belinda.prado@longbeach.gov.



RFQ HE18-099 PART II - Request for Quotes for Projects > \$25,000

PART (A) – NARRATIVE *To Be Completed by Applicant*

(3 pages max)

Relevant programmatic logic model(s). Upload separate document, if needed.

Scope of work, including description of goals, expected outcomes, objectives, process outputs, and activities to measure impact. Upload separate document, if needed.

Please see attached scope of work (TCC RFQ HE18-099 SOW)

Staff qualifications and availability. Upload separate document, if needed.



RFQ HE18-099 PART II - Request for Quotes for Projects > \$25,000

PART (B) – BUDGET *To Be Completed by Applicant*

(2 pages max)

Rate sheet on file

Proposed budget and budget narrative. Please attach budget separately, if needed.

BUDGET NARRATIVE

The Children's Clinic, "Serving Children and Their Families" (TCC), dba TCC Family Health, is an independent not-for-profit 501(c)(3) licensed 330(c) FQHC community health center system located throughout greater Long Beach, California. Founded in 1939, TCC has grown from one small clinic providing pediatric care, to a system of 12 clinical sites and a mobile primary care clinic serving over 40,000 individuals throughout greater Long Beach every year.

TCC's strategic plan is to work on a continuum of health care for patients experiencing homelessness overseen by Dr. Jack Tsai, Associate Medical Director of Homeless Services. Services include street outreach with a provider led team, a mobile clinic that goes to a local homeless shelter, clinic sites at the Multi-Service Center (a Centralized Coordinated Entry System site for Long Beach) and at the Century Villages of Cabrillo, which offers transitional and permanent housing services. TCC is also planning to open a clinical site that will be co-located with Mental Health America Los Angeles in March of 2020, focusing on those with a diagnosis of severe mental illness and/or substance abuse.

These patients served are at high risk for communicable diseases, including hepatitis C, and TCC has recognized and responded to this need by implementing a hepatitis C treatment program in 2018. TCC currently has one active hepatitis C treatment prescriber, with an additional provider undergoing training through CCALAC HCV certification course. TCC also has implemented medication assisted treatment of opioid use disorder to address associated risk factors and co-morbidities. TCC receives regular updates and works closely with Dr. Anissa Davis of Long Beach Public health to stay up to date on current trends and screening/treatment guidelines.

Challenges to adequate screening in this population are the transient nature of patients experiencing homelessness, who may move on to a different location in a short time, as well as barriers they face in following up on care, such as transportation issues and conflicting priorities. TCC plans to implement point of care testing initially for Hepatitis C and eventually to expand to HIV, so that providers can screen, address, and send for confirmation testing the same day. Oftentimes patients are not able to make it to the laboratory to get blood work done, or have no means of being reached if a positive result was found.

To help improve compliance in follow up, both in diagnosis, as well as subsequent referrals or plans for treatment, TCC plans to establish Hepatitis C case managers who can identify and address barriers, such as helping to sign patients up for insurance, connecting patients to transportation services, and reminding patients of appointments and pending items. TCC also hopes to expand access to hepatitis C treatment services by increasing the number of primary care providers trained to provide hepatitis C treatment without having to refer to specialists.

BUDGET ATTACHED SEPARATELY.

Scope of work, including description of expected outcomes, goals, objectives, process outputs, and activities to measure impact

ACTIVITIES	PERFORMANCE INDICATORS/DELIVERABLES	TIMELINE
<p>Conduct or ensure the provision of HCV antibody testing for persons at high risk for HCV infection, with an emphasis on high priority settings</p>	<ul style="list-style-type: none"> • Description of priority populations and settings selected for HCV antibody testing submitted to CDPH <ul style="list-style-type: none"> ○ 1st year: <ul style="list-style-type: none"> ▪ highest risk sites (homeless/formerly homeless, recent incarceration, comorbid severe mental illness, substance use disorder, high risk sexual activity): Mobile van, MSC, Century Villages of Cabrillo, MHA ▪ All pregnant patients <ul style="list-style-type: none"> ○ Expand 2 sites per year • Number of people tested for HCV antibody: 2000 year 1, 1000 additional per year • Number and percent of people tested for HCV antibody with a reactive result: year 1: 200 (10%), each subsequent year 100 additional 	<p>07/01/20 - 06/30/24</p>
<p>Conduct or ensure the provision of HCV ribonucleic acid (RNA) testing (needed to diagnose current hepatitis C infection)</p>	<ul style="list-style-type: none"> • Description of activities to ensure people with a positive HCV antibody test result receive follow up HCV RNA testing submitted to CDPH: <ul style="list-style-type: none"> ○ reflex RNA testing for positive hep C ab blood draw, ○ send for RNA confirmation for positive hep C POC 	<p>07/01/20 - 06/30/24</p>

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	<ul style="list-style-type: none"> o case manager to track positives hep C ab to ensure gets confirmation RNA testing • Number and percent of people with a reactive HCV antibody test result who receive follow up HCV RNA testing <ul style="list-style-type: none"> o Target: 130 (65%) • Number and percent of people tested for HCV RNA with HCV RNA positive: 40 (2%) 	<ul style="list-style-type: none"> • Description of HCV linkage to care activities submitted to CDPH <ul style="list-style-type: none"> o Refer to GI specialist if insured o Treat at TCC if qualifies o Refer to DHS if uninsured o LVN and case manager to follow up referrals to close loop • Number and percent of clients with a positive HCV RNA result with evidence of linkage to care <ul style="list-style-type: none"> • Target: 26 (65%) 	<p>07/01/20 - 06/30/24</p>
<p>Conduct or ensure the provision of HCV navigation and linkages to care for people with a positive HCV RNA test or who were previously diagnosed with HCV</p>		<ul style="list-style-type: none"> • Description of HCV care coordination activities submitted to CDPH <ul style="list-style-type: none"> o LVN and case manager to follow up treatment status o PCP on follow-up to monitor • Number of people who start hepatitis C treatment: 26 • Number and percent of people who started hepatitis C treatment known to have completed hepatitis C treatment: 20 (75%) 	<p>07/01/20 - 06/30/24</p>
<p>Conduct or ensure the provision of hepatitis C care coordination and treatment among people with hepatitis C</p>			

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<ul style="list-style-type: none">• Appropriate STI screenings for high risk population• Expand to HIV POCT years 2-5	Additional high risk screenings (HIV, Hep B, syphilis, GC/Chlamydia)
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07/01/20 -
06/30/24

EXHIBIT “B”

**Exhibit B, Attachment I
Subcontractor Budget
TCC Family Health
Year 2
July 1, 2020 – June 30, 2021**

PERSONNEL

<u>Classification</u>	<u>Monthly Salary</u>	<u>Percent of Time</u>	<u>Months</u>		<u>Budget</u>
Associate Med. Dir. Homeless Services	\$17,982	5%	12	\$	10,789
Medical Director	\$22,545	4%	12	\$	10,822
Homeless Patient Care Manager	\$3,928	50%	12	\$	23,567
LVN Lead	\$4,206	25%	12	\$	12,619
Total Personnel					\$57,797
Fringe Benefits @ 32%					\$18,495
Total Personnel & Benefits					\$76,292

PROGRAM EXPENSES

3000 POCT Strips	\$1,979
20 Lab RNA Testing - Qualitative Treatment	\$1,230
20 Lab RNA Testing - Quantitative Treatment	\$1,870
Total Operating Expenses	\$5,079

TRAVEL **\$0**

PROVIDER TRAINING

HCV Certification Course \$4,000

Total Subcontractors **\$4,000**

OTHER COSTS **\$0**

INDIRECT COSTS (10% OF PERSONNEL AND BENEFITS) **\$7,629**

BUDGET GRAND TOTAL **\$93,000**

EXHIBIT “C”

City’s Representative(s):

Belinda Prado, HIV/STD Surveillance
Coordinator

(562) 570-4213

EXHIBIT “D”

Materials/Information Furnished: None

EXHIBIT “E”

Consultant’s Key Employee(s):

Penelope Leon, Chief Development &
Communications Officer

(562) 264-4647

EXHIBIT "F"



CITY OF LONG BEACH

DEPARTMENT OF HEALTH AND HUMAN SERVICES

2525 GRAND AVENUE • LONG BEACH, CALIFORNIA 90815 • (562) 570-4000 • FAX: (562) 570-4049

Health Information In Compliance With the Health Insurance Portability And Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH Act)

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("Agreement") is made and entered as of August 4, 2020 by and between THE CHILDREN'S CLINIC 'SERVING CHILDREN AND THEIR FAMILIES', DBA TCC FAMILY HEALTH, a California nonprofit corporation, whose business address is 701 E. 28th Street, Suite 200, Long Beach, CA 90806 (hereinafter referred to as "Business Associate"), and the CITY OF LONG BEACH, a municipal corporation (hereinafter referred to as "City" or "Covered Entity").

WHEREAS, the City, a municipal corporation under the laws of the State of California, is a single legal entity which has various departments, including a Department of Health and Human Services that provides a multitude of health care and related services, and other departments that may have access to and use individually identifiable health information, such as human resources, a parks, recreation and marine department, a technology department, a fire department with ambulance services, and a police department; and

WHEREAS, in the course of providing health care, related and other services, the City obtains and may share amongst the various City departments protected health information; and

WHEREAS, Business Associate performs particular duties, functions, activities, or services for, or on behalf of the City; and

WHEREAS, Business Associate receives, has access to or creates protected health information in order to perform such duties, functions, activities or services; and

WHEREAS, the City and Business Associate intend to protect the privacy and provide for the security of protected health information in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the "HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

NOW, THEREFORE, in consideration of the mutual terms covenants, and conditions in this Agreement, the parties agree as follows:

1. DEFINITIONS. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA Regulations, including the Privacy Rule and the Security Rule codified in Title 45, Sections 160-164 of the Code of Federal Regulations, and under the HITECH Act.
2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.
 - A. Non-disclosure. Business Associate agrees to not use or disclose protected health information other than as permitted or required by the Agreement or as required by law.
 - B. Safeguards. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the protected health information. Business Associate shall comply with the policies and procedures and documentation requirements of the HIPAA Regulations.
 - C. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of protected health information by Business Associate in violation of the requirements of this Agreement.
 - D. Notice of Use or Disclosure, Security Incident or Breach. Business Associate agrees to notify the designated privacy official of the Covered Entity of any use or disclosure of protected health information by Business Associate not permitted by this Agreement, any security incident involving electronic protected health information, and any breach of unsecured protected health information without unreasonable delay, but in no case more than thirty (30) days following discovery of breach.
 1. Business Associate shall provide the following information in such notice to Covered Entity:
 - (a) The identification of each individual whose unsecured protected health information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such breach;
 - (b) A description of the nature of the breach including the types of unsecured protected health information that were involved, the date of the breach and the date of discovery;
 - (c) A description of the type of unsecured protected health information acquired, accessed, used or disclosed in the breach (e.g., full name, social security number, date of birth, etc.);
 - (d) The identity of the person who made and who received

- (if known) the unauthorized acquisition, access, use or disclosure;
- (e) A description of what the Business Associate is doing to mitigate the damages and protect against future breaches; and
 - (f) Any other details necessary for Covered Entity to assess risk of harm to individual(s), including identification of each individual whose unsecured protected health information has been breached and steps such individuals should take to protect themselves.
- 2. Covered Entity shall be responsible for providing notification to individuals whose unsecured protected health information has been disclosed, as well as the Secretary and the media, as required by the HITECH Act.
 - 3. Business Associate agrees to establish procedures to investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of these procedures and the specific findings of the investigation to Covered Entity in the time and manner reasonably requested by Covered Entity.
 - 4. The parties agree that this section satisfies any notice requirements of Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but unsuccessful security incidents for which no additional notice to Covered Entity shall be required. For purposes of this Agreement, unsuccessful security incidents include activity such as pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of electronic public health information.
- E. Reporting of disclosures. Business Associate agrees to report to Covered Entity any use or disclosure of the protected health information not provided for by this Agreement of which it becomes aware.
 - F. Business Associate's Agents. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides protected health information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

- 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.
- 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, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the business associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- C. Except as otherwise limited in this Agreement, Business Associate may use protected health information to provide data aggregation services 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 § 164.502(j)(1).

4. PROHIBITED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

- A. Business Associate shall not use or disclose protected health information for fundraising or marketing purposes.
- B. Business Associate shall not disclose protected health information to a health plan for payment or health care operations purposes if the individual 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.
- C. Business Associate shall not directly or indirectly receive payment or remuneration in exchange for protected health information, except with the prior written consent of Covered Entity and as permitted by law, including HIPAA and the HITECH Act. This prohibition shall not effect payment by Covered Entity to Business Associate.

5. OBLIGATIONS OF COVERED ENTITY.

- A. Notification of Limitations in Notice of Privacy Practices. 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 or disclosure of protected health information.
- B. Notification of Change or Revocation of Permission. Covered entity shall notify Business Associate of any changes in, or revocation of,

- G. Availability of Information to City. Business Associate agrees to provide prompt access to protected health information in a designated record set to Covered Entity or, as directed by Covered Entity, to an individual upon Covered Entity's request in order to meet the requirements under 45 CFR § 164.524. If Business Associate maintains an electronic health record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act.
- H. Amendment of Protected Health Information. Business Associate agrees to promptly 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 at the request of Covered Entity or an individual.
- I. Internal Practices. Business Associate agrees to make internal practices, books, and records, including policies and procedures and protected health information, relating to the use and disclosure of protected health information received from, or created or received by Business Associate on behalf of, covered entity available to the Secretary of the U.S. Department of Health and Human Services for purposes of the Secretary determining the Business Associate's compliance with the Privacy Rule.
- J. Reporting of Disclosures. Business Associate agrees to document such disclosures of protected health information and information related to such disclosures as would be required for the City to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with the Privacy Rule, including but not limited to 45 CFR § 164.528, and the HITECH Act.
- K. Availability of Information to Covered Entity. Business Associate agrees to promptly provide to Covered Entity or an individual information collected in accordance with Section 2(j) of this Agreement, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with the Privacy Rule, including but not limited to 45 CFR § 164.528, and the HITECH Act.

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

Except as otherwise limited in this Agreement, Business Associate may use or disclose protected health information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule or the HITECH Act if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity. The specific use and disclosure provisions are as follows:

permission by individual to use or disclose protected health information, to the extent that such changes may affect Business Associate's use or disclosure of protected health information.

- C. Notification of Restrictions. Covered Entity shall notify Business Associate of any restriction to the use 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 effect Business Associate's use or disclosure of protected health information.

6. PERMISSIBLE REQUESTS BY COVERED ENTITY. Covered Entity shall not request Business Associate to use or disclose protected health information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except that this restriction is not intended and shall not be construed to limit Business Associate's capacity to use or disclose protected health information for the proper management and administration of the Business Associate or to provide data aggregation services to Covered Entity as provided for and expressly permitted under Section 3 (a), (b), and (c) of this Agreement.

7. TERM AND TERMINATION.

- A. *Term.* The term of this Agreement shall be effective upon execution, and shall terminate when all of the protected health information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy protected health information, protections are extended to such information, in accordance with the termination provisions in this Section.
- B. *Termination for Cause.* Upon either party's knowledge of a material breach by the other party, the party with knowledge of the other party's breach shall either:
1. Provide an opportunity for the breaching party to cure the breach or end the violation and terminate this Agreement if the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party;
 2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 3. If neither termination nor cure is feasible, the violation shall be reported to the Secretary.
- C. *Effect of Termination.*

1. Except as provided in paragraph (2) of this Section, upon termination of this Agreement for any reason, Business Associate shall return or destroy all protected health information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to protected health information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the protected health information.
 2. In the event that Business Associate determines that returning or destroying the protected health information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible and shall extend the protections of this Agreement to such protected health information and limit further uses and disclosures of such protected health information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such protected health information.
8. ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS.
- Business Associate shall make itself and any subcontractors, employees, or agents assisting Business Associate in the performance of its obligations under this Agreement with the Covered Entity, available to Covered Entity, at no cost to Covered Entity to testify as witnesses or otherwise, in the event of litigation or administrative proceedings commenced against Covered Entity, its directors, officers, or employees based on a claimed violation of HIPAA, the HIPAA Regulations, the HITECH Act, or other laws relating to security or privacy, except where Business Associate or its subcontractors, employees or agents are named as an adverse party.
9. MISCELLANEOUS.
- A. *References.* A reference in this Agreement to a section in the HIPAA Regulations or the HITECH Act means the section as in effect or as amended.
 - B. *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 Rule, the Security Rule, HIPAA, the HITECH Act and other privacy laws governing protected health information. Amendments must be in writing and signed by the parties to the Agreement.
 - C. *Survival.* The respective rights and obligations of Business Associate under Section 6(c) of this Agreement shall survive the termination of this Agreement.

- D. *Interpretation.* Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Regulations and the HITECH Act.
10. LAW. This Agreement shall be governed by and construed pursuant to federal law and the laws of the State of California (except those provisions of California law pertaining to conflicts of laws). Business Associate shall comply with all laws, ordinances, rules and regulations of all federal, state and local governmental authorities.
11. ENTIRE AGREEMENT. This Agreement, including Exhibits, constitutes the entire understanding between the parties and supersedes all other agreements, oral or written, with respect to the subject matter herein.
12. INDEMNITY.
- A. Business Associate shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Business Associate's breach or failure to comply with any of its obligations contained in this Agreement, or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Business Associate, its officers, employees, agents, subcontractors, or anyone under Business Associate's control, in the performance of work or services under this Agreement (collectively "Claims" or individually "Claim").
- B. In addition to Business Associate's duty to indemnify, Business Associate shall have a separate and wholly independent duty to defend Indemnified Parties at Business Associate's expense by legal counsel approved by City, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of Business Associate shall be required for the duty to defend to arise. City shall notify Business Associate of any Claim, shall tender the defense of the Claim to Business Associate, and shall assist Business Associate, as may be reasonably requested, in the defense.
13. AMBIGUITY. In the event of any conflict or ambiguity in this Agreement, such ambiguity shall be resolved in favor of a meaning that complies and is consistent with HIPAA, HIPAA Regulations, the HITECH Act and California law.
14. COSTS. If there is any legal proceeding between the parties to enforce or interpret this Agreement or to protect or establish any rights or remedies

hereunder, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees and court costs, including appeals.

15. NOTICES. Any notice or approval required hereunder by either party shall be in writing and personally delivered or deposited in the U.S. Postal Service, first class, postage prepaid, addressed to Business Associate at the address first stated herein, and to the City at 411 West Ocean Boulevard, Long Beach, California 90802 Attention: Director, Health Department. Notice of change of address shall be given in the same manner as stated herein for other notices. Notice shall be deemed given on the date deposited in the mail or on the date personal delivery is made, whichever first occurs.
16. WAIVER. The acceptance of any services or the payment of any money by City shall not operate as a waiver of any provision of this Agreement, or of any right to damages or indemnity stated in this Agreement. The waiver of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach of this Agreement.
17. CONTINUATION. Termination or expiration of this Agreement shall not affect rights or liabilities of the parties which accrued pursuant to Sections 7,12 and 14 prior to termination or expiration of this Agreement, and shall not extinguish any warranties hereunder.
18. ADVERTISING. Business Associate shall not use the name of City, its officials or employees in any advertising or solicitation for business, nor as a reference, without the prior approval of the City Manager or designee.
19. THIRD PARTY BENEFICIARY. This Agreement is intended by the parties to benefit themselves only and is not in any way intended or designed to or entered for the purpose of creating any benefit or right for any person or entity of any kind that is not a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all of the formalities required by law as of the date first stated herein.

THE CHILDREN'S CLINIC 'SERVING CHILDREN AND THEIR FAMILIES', DBA TCC FAMILY HEALTH, a California nonprofit corporation

X _____, 2020

By [Signature]
Name Harold Van Dyke II
Title Board President

_____, 2020

By [Signature]
Name Elisa Nicholas
Title Chief Executive Officer

"Business Associate"

CITY OF LONG BEACH, a municipal corporation

November 23, 2020

By [Signature]
City Manager

"City"

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER

The foregoing Agreement is hereby approved as to form this 19th day of Nov., 2020.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy