

C O N T R A C T

The COUNTY OF SAN BENITO ("COUNTY") and COUNTY OF MONTEREY ("CONTRACTOR") enter into this contract which shall be effective on the date stated in Paragraph 1.

1. Duration of Contract.

This contract shall commence on July 1, 2011 and end on June 30, 2013, unless sooner terminated as specified herein.

2. Scope of Services.

CONTRACTOR, for COUNTY's benefit shall perform the services specified on Attachment A to this contract. Attachment A is made a part of this contract.

3. Compensation for Services.

In consideration for CONTRACTOR's performance, COUNTY shall pay compensation to CONTRACTOR according to the terms specified in Attachment B. Attachment B is made a part of this contract.

4. General Terms and Conditions.

The rights and duties of the parties to this contract are governed by the general terms and conditions mutually agreed to and listed in Attachment C. Attachment C is made a part of this contract.

5. Insurance Limits.

CONTRACTOR shall maintain the following insurance policy limits of coverage consistent with the further insurance requirements specified in Attachment C.

- (a) Comprehensive general liability insurance: \$1,000,000
- (b) Professional liability insurance: \$1,000,000
- (c) Comprehensive motor vehicle liability insurance: \$1,000,000

6. Termination.

The number of days of advance written notice required for termination of this contract is 30 days.

7. Specific Terms and Conditions (check one)

- There are no additional provisions to this contract.
- The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment D. Attachment D is made a part of this contract.
- The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment E. Attachment E is made a part of this contract.

8. Information about Contract Administrators.

The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

Contract Administrator for COUNTY:

Name: Alan Yamamoto

Title: Behavioral Health Director

Address: 1131 San Felipe Road

Hollister, California 95023

Telephone No.: (831) 636-4020

Fax No.: (831) 636-4025

Contract Administrator for CONTRACTOR:

Name: Sid Cato

Title: Contracts Manager

Address: P.O. Box 81611

Salinas, CA 93912

Telephone No.: (831) 755-4223

Fax No.: _____

SIGNATURES

APPROVED BY COUNTY:

Name: _____

Chair, San Benito County Board of Supervisors

Date: _____

APPROVED BY CONTRACTOR:

Name: [Signature]

Title: Chief Executive Officer

Date: 1/26/12

APPROVED AS TO LEGAL FORM:

San Benito County Counsel

By: _____

Date: _____

Reviewed as to fiscal provisions

[Signature]

Auditor/Controller
County of Monterey

1-31-12

APPROVED AS TO FORM
[Signature] 1/31/12

ATTACHMENT A

Scope of Services

1 The **Mental Health Unit** will provide acute psychiatric inpatient services to county residents when such services are available and bed capacity allows pursuant to this contract:

- a. Acute Psychiatric Inpatient Care will include medical and psychiatric evaluations, psychological and social assessments, when ordered after admission to the mental health unit by the patient's attending physician, laboratory testing for physical illness causing or complicating mental health care, individual and group therapy, other treatments, as indicated, such as recreational and occupational therapies. Effective treatment will be of high standard in the least restrictive mode.

2 SERVICES INCLUDED

- a. Routine Laboratory Studies:

MHU will provide, as part of its all-inclusive rate, the following tests when ordered after admission to the mental health unit by the patient's attending physician to permit screening for physical illness, drug and medication intoxications and ongoing routine medical care: Blood cell profile, urine analysis (with pregnancy tests in selected women), tests for infectious disease, such as tuberculosis, by either a purified protein derivative (PPD) skin test or chest x-ray, serum test for syphilis, a "large panel" or any part thereof, electrolytes and thyroid function tests (T-3, T-4) electrocardiogram, urine toxicology screen, blood lithium levels, "rule out" streptococcus throat culture, urine culture, antibiotic sensitivities, thyroid stimulating hormone test and carbamazepine levels.

Special laboratory and medical tests that may be obtain under the all-inclusive rate may include, but not be limited to, routine throat culture, serum foliate, and B-12 levels, electroencephalograms, skull films, computerized tomography of the brain, radionuclear brain and thyroid tests, serum bromide levels, dexamethasone suppression tests, serum tricyclic antidepressant levels and serum ceruloplasmin titers.

- b. Routine Medical Examinations:

MHU will provide as part of its all-inclusive rate for **COUNTY's** patients routine medical history and physical examination on each new admission within 24 hours by a primary care clinician (family physician, nurse practitioner, physician's assistant or other staff physician) as part of the admission diagnostic assessment. The MHU will also provide brief consultations for medical problems that may arise subsequent to admission. The primary care clinician will do this.

- c. Special Medical Examinations:

Non-routine medical care or diagnostic consultations and evaluations for psychiatrically related problems may be obtained under the all-inclusive rate which may include, but not be limited to internal medicine or endocrinologic consultations or specialized radiographic examinations of the brain. Approval shall be obtained from MHU Medical Director prior to ordering special examinations.

Non-psychiatrically related medical or dental care will be charged either to the patient or the other third party medical care programs, i.e. MediCal, private insurance.

d. Medications:

Routine medications necessary for patient's care in treatment will be provided while in the hospital. Patients will be provided prescription(s) at the time of discharge, as necessary for continuity of medical treatment.

e. Conduct of Care:

Care provided to patients will be in accordance with JCAHO standards, Medical Staff By-Laws and Rules and Regulations, Hospital By-Laws and Rules and Regulations of the Department of Psychiatry of Natividad Medical Center. There will be individualized treatment plans and documented daily progress notes indicating results of treatment, changes in medication, complications to treatment, changes in legal status and other pertinent matters relating to the patient's care.

As clinically feasible, the patients will be allowed full participation in routine treatment activities including individual and group psychotherapy, occupational therapy, activities and community meetings. Patients shall be given complete information and education about psychotropic medications, the side effects, dosages and reasons for their use. All voluntary patients must have signed consent to receive psychotropic medications and be provided with written information about their particular medications, if they so request.

END OF ATTACHMENT A

ATTACHMENT B

Payment Schedule

B - 1. BILLING

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (check one)

- One month in arrears.
- Upon the complete performance of the services specified in Attachment A.
- The basis specified in paragraph B-4.

B - 2. PAYMENT

COUNTY shall make payment to CONTRACTOR at the address specified in paragraph 8 of this contract, net thirty (30) days from the invoice date.

B - 3. COMPENSATION

COUNTY shall pay to CONTRACTOR: (check one)

- A total lump sum payment, or
- A total sum not to exceed two hundred fifty thousand dollars (\$250,000.00) for services rendered pursuant to the terms and conditions of this contract and pursuant to any special compensation terms specified in this Attachment B.

B - 4. SPECIAL COMPENSATION TERMS: (Check one)

- There are no additional terms of compensation
- The following specific terms of compensation shall apply: (specify)

- a. COUNTY agrees to pay CONTRACTOR monthly at an interim rate of one thousand one hundred seventy two dollars & seventy one cents (\$1172.71) per day for inpatient services provided under this Agreement. Upon submission of the year end cost report, final payment will be settled based upon actual cost per day derived in conformance with the Cost Report/Data Collection & Short-Doyle/Medi-Cal procedures set forth by the California State Department of Mental Health, or the current year's Short-Doyle/Medi-Cal Maximum Reimbursement Rate, whichever is less.
- b. **Exhaustion of County Funds.** CONTRACTOR agrees and understands that services are to be provided for the entire contract period and that patients will be screened and selected on the basis of need for treatment and availability of funds. If, for any reason, COUNTY estimates that it will exhaust the amounts stated herein as the maximum financial obligation of the COUNTY, COUNTY shall provide CONTRACTOR with forty-five (45) days notice prior to the exhaustion of funds.

Upon exhaustion by the COUNTY of the amounts stated herein as the maximum financial obligation of the COUNTY for the contract period, CONTRACTOR is relieved of any and all obligations under this Agreement. CONTRACTOR agrees to provide COUNTY with fifteen (15) days' notice prior to terminating this Agreement under this paragraph.

Should additional funds be obtained by COUNTY subsequent to exhaustion of COUNTY fund, COUNTY shall provide CONTRACTOR with fourteen (14) days' notice of additional funds and of willingness to amend this Agreement accordingly. At the end of this notice period, CONTRACTOR shall again be subject to all obligations under this Agreement for the remainder of the contract period.

- c. **Responsibility for Audit Exceptions.** Where COUNTY's funding sources under this Agreement are COUNTY and/or State appropriations, COUNTY is responsible for administering the program described herein. CONTRACTOR agrees to accept responsibility for receiving, replying, to and/or complying with any audit exceptions by appropriate Federal, State or County audit agencies. Appeals shall be handled through processes established by the State Department of Mental Health. CONTRACTOR also agrees to pay to COUNTY the full amount of any liability found to be due COUNTY as a result of said audit exceptions. COUNTY agrees to pay CONTRACTOR any additional amounts found to be due as a result of said audit exceptions, not to exceed the maximum financial obligation of COUNTY under this Agreement.
- d. **Overpayment/Underpayment.** When mutually agreed upon, overpayment or underpayment may be handled by adjustments to payments in subsequent fiscal year. Overpayment as determined by audits shall be payable to COUNTY within forty-five (45) days after of said determination. Overpayment held in excess of forty-five (45) days after demand has been made shall be subject to a penalty charge of a flat twelve (12%) percent per annum. Underpayment as determined by audits shall be payable to CONTRACTOR within forty-five (45) days after date of said determination. Underpayment held in excess of forty-five (45) days shall be subject to a penalty charge of a flat twelve (12%) percent per annum.
- e. **Eligibility and Billing Disputes.** COUNTY responsible patients are those patients who have no private insurance including Medi-Cal and/or Medicare and who have no private financial resources, specifically those clients whose financial resources are such that they have an annual financial liability of less than Three Hundred Dollars (\$300) per year, as determined by the Department of Mental Health fee evaluation scale.

END OF ATTACHMENT B

ATTACHMENT C General Terms and Conditions

C-1. INDEMNIFICATION.

CONTRACTOR and COUNTY each agree to indemnify, defend and save harmless the other party and the other party's officers and employees, from and against any and all claims and losses whatsoever arising out of, or in any way related to, the indemnifying party's performance under this contract, including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorneys' fees, court costs, investigation costs, and experts' fees) incurred by the indemnitee in connection with such claims or losses. A party's "performance" includes the party's action or inaction and the action or inaction of that party's officers and employees.

Notwithstanding the above indemnification provision, COUNTY and CONTRACTOR agree that CONTRACTOR's duty to indemnify COUNTY shall be limited solely to any claim arising from the act or omission of CONTRACTOR with respect to a patient which occurs during the period from admission of the patient to CONTRACTOR until the discharge or transfer of the patient from CONTRACTOR (the "Indemnification Period"). CONTRACTOR shall have no duty to indemnify COUNTY with respect to any claim arising from an act or omission occurring at any time other than the Indemnification Period, including without limitation during transport of patients to or from CONTRACTOR, which transport shall be solely the responsibility of COUNTY as specified in Attachment F of this contract which is hereby incorporated by reference.

C-2. GENERAL INSURANCE REQUIREMENTS.

Without limiting CONTRACTOR's duty to indemnify COUNTY, CONTRACTOR shall comply with the insurance coverage requirements set forth in the contract and in this attachment. Those insurance policies mandated by Paragraph C-3 shall satisfy the following requirements:

- (a) Each policy shall be issued by a company authorized by law to transact business in the State of California.
- (b) Each policy shall provide that COUNTY shall be given notice in writing at least thirty (30) days in advance of any change, cancellation, or nonrenewal thereof.
- (c) The comprehensive motor vehicle and comprehensive general liability policies shall each provide an endorsement naming the County of San Benito and its officers, agents and employees as additional insureds.
- (d) The required coverage shall be maintained in effect throughout the term of this contract.

CONTRACTOR shall require all subcontractors performing work under this contract to obtain substantially the identical insurance coverage required of CONTRACTOR pursuant to this agreement.

C-3. INSURANCE COVERAGE REQUIREMENTS.

If required by paragraph 5 of the contract, CONTRACTOR shall maintain the following insurance policies in full force and effect during the term of this contract:

- (a) Comprehensive general liability insurance. CONTRACTOR shall maintain comprehensive general liability insurance, covering all of CONTRACTOR's operations with a combined single limit of not less than the amount set out in paragraph 5 of this contract.
- (b) Professional liability insurance. CONTRACTOR shall maintain professional liability insurance with liability limits of not less than the amount set out in paragraph 5 of this contract.
- (c) Comprehensive motor vehicle liability insurance. CONTRACTOR shall maintain comprehensive motor vehicle insurance covering all motor vehicles (including owned, non-owned and hired) used in providing services under this contract, with a combined single limit of not less than the amount set out in Paragraph 5 of this contract.
- (d) Workers' compensation insurance. CONTRACTOR shall maintain a workers' compensation plan covering all of its employees as required by California Labor Code Section 3700, either through workers' compensation insurance issued by an insurance company or through a plan of self-insurance certified by the State Director of Industrial Relations. If CONTRACTOR elects to be self-insured, the certificate of insurance otherwise required by this contract shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations.

C-4. CERTIFICATE OF INSURANCE.

Prior to the commencement of performance of services by CONTRACTOR and prior to any obligations of COUNTY, CONTRACTOR shall file certificates of insurance with COUNTY, showing that CONTRACTOR has in effect the insurance required by this contract. CONTRACTOR shall file a new or amended certificate promptly after any change is made in any insurance policy which would alter the information on the certificate then on file. In lieu of providing proof of insurance, CONTRACTOR may provide proof of self-insurance meeting requirements equivalent to those imposed herein. CONTRACTOR warrants that CONTRACTOR's self-insurance provides substantially the same protection to COUNTY as the insurance required herein. CONTRACTOR further agrees to notify COUNTY in the event any change in self-insurance occurs that would alter the obligations undertaken in this contract within thirty (30) days of such change.

C-5. RECORDS TO BE MAINTAINED.

CONTRACTOR shall keep and maintain accurate records of all costs incurred and all time expended for work under this contract. CONTRACTOR shall contractually require that all of CONTRACTOR's subcontractors performing work called for under this contract also keep and maintain such records. All such records, whether kept by CONTRACTOR or any subcontractor, shall be made available to COUNTY or its authorized representative, or officials of the State of California for review or audit during normal business hours, upon reasonable advance notice given by COUNTY, its authorized representative, or officials of the State of California.

C-6. RETENTION OF RECORDS.

CONTRACTOR shall maintain and preserve all records related to this contract for a period of three years from the close of the fiscal year in which final payment under this contract is made. CONTRACTOR shall also contractually require the maintenance of such records in the possession of any third party performing work related to this contract for the same period of time. Such records shall be retained beyond the three-year period, if any audit involving such records is then pending, until the audit findings are resolved. The obligation to insure the maintenance of the records beyond the initial three year period shall arise only if the COUNTY notifies CONTRACTOR of the commencement of an audit prior to the expiration of the three year period.

C-7. TITLE TO DOCUMENTS; COPYRIGHT.

All reports and other materials collected or produced by the CONTRACTOR or any subcontractor of CONTRACTOR shall, after completion and acceptance of the contract, become the property of COUNTY, and shall not be subject to any copyright claimed by the CONTRACTOR, subcontractor, or their agents or employees. CONTRACTOR may retain copies of all such materials exclusively for administrative purposes. Any use of completed or uncompleted documents for other projects by CONTRACTOR, any subcontractor, or any of their agents or employees, without the prior written consent of COUNTY is prohibited.

C-8. INDEPENDENT CONTRACTOR.

CONTRACTOR and its officers and employees, in the performance of this contract, are independent contractors in relation to COUNTY and not officers or employees of COUNTY. Nothing in this contract shall create any of the rights, powers, privileges or immunities of any officer or employee of COUNTY. CONTRACTOR shall be solely liable for all applicable taxes or benefits, including, but not limited to, federal and state income taxes, Social Security taxes, or ERISA retirement benefits, which taxes or benefits arise out of the performance of this contract. CONTRACTOR further represents to COUNTY that CONTRACTOR has no expectation of receiving any benefits incidental to employment.

C-9. CONFLICT OF INTEREST.

CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. CONTRACTOR further covenants that, in the performance of this contract, no subcontractor or person having such an interest shall be used or employed.

C-10. COMPLIANCE WITH APPLICABLE LAWS.

CONTRACTOR shall comply with all applicable federal, state and local laws now, or hereafter, in force, and with any applicable regulations, in performing the work and providing the services specified in this contract. This obligation includes, without limitation, the acquisition, and maintenance of any permits, licenses, or other entitlements necessary to perform the duties imposed expressly or impliedly under this contract.

C-11. NONDISCRIMINATION.

CONTRACTOR shall not discriminate in the employment of persons necessary to perform this contract on any legally impermissible basis, including on the basis of the race, color, national origin, ancestry, religion, age, sex, or disability of such person.

C-12. BANKRUPTCY.

CONTRACTOR shall immediately notify COUNTY in the event that CONTRACTOR ceases conducting business in the normal manner, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors.

C-13. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION OF DUTIES.

Except as specifically authorized herein, no rights under this contract may be assigned and no duties under this contract may be delegated by CONTRACTOR without the prior written consent of COUNTY, and any attempted assignment or delegation without such consent shall be void.

C-14. NEGOTIATED CONTRACT.

This contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this contract within the meaning of California Civil Code Section 1654.

C-15. SEVERABILITY.

Should any provision herein be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect. To this end, the provisions of this contract are declared to be severable.

C-16. ENTIRE CONTRACT.

This contract is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this contract or in any document attached hereto or incorporated herein by reference.

C-17. TIME IS OF THE ESSENCE.

Time is of the essence in the performance of this contract.

C-18. TERMINATION.

Either party may terminate this contract, with or without cause, at any time. In order to terminate this contract, the terminating party shall give advance written notice to the other party. The termination shall be effective no earlier than the expiration of the number of days specified in paragraph 6 of this contract. The termination notice shall be made as specified in paragraph C-

19, below. In the event of termination, COUNTY shall pay CONTRACTOR for all work satisfactorily performed prior to the effective date of the termination.

C-19. NOTICES.

Notices to the parties in connection with the administration of this contract shall be given to the parties' contract administrator personally, by regular mail, or by facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

- (a) The day the notice is personally delivered to the contract administrator or the office of the party's contract administrator; or
- (b) Five days after the date the notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, with first-class postage fully prepaid; or
- (c) On the day that the notice is transmitted by facsimile to a party's facsimile number specified in paragraph 8 of this contract, provided that an original of such notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, on the same day as the facsimile transmission is made.

C-20. RESPONSIBILITY OF CONTRACT ADMINISTRATORS.

All matters concerning this contract which are within the responsibility of the parties shall be under the direction of, or shall be submitted to, the respective contract administrators or to the party's employee specified, in writing, by the contract administrator. A party may, in its sole discretion, change its designation of its contract administrator and shall promptly give written notice to the other party of any such change.

C-21. MATERIALITY.

The parties consider each and every term, covenant, and provision of this contract to be material and reasonable.

C-22. WAIVER.

Waiver by either party of a breach of any covenant of this contract will not be construed to be a continuing waiver of any subsequent breach. COUNTY's receipt of consideration with knowledge of CONTRACTOR's violation of a covenant does not waive its right to enforce any covenant of this contract. The parties shall not waive any provisions of this contract unless the waiver is in writing and signed by all parties.

C-23. AUTHORITY AND CAPACITY.

CONTRACTOR and CONTRACTOR's signatory each warrant and represent that each has full authority and capacity to enter into this contract.

C-24. BINDING ON SUCCESSORS.

All of the conditions, covenants and terms herein contained shall apply to, and bind, the heirs, successors, executors, administrators and assigns of CONTRACTOR. CONTRACTOR and all of CONTRACTOR's heirs, successors, executors, administrators, and assigns shall be jointly and severally liable under this contract.

C-25. CUMULATION OF REMEDIES.

All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and no one of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.

C-26. INDEPENDENT ADVICE.

Each party hereby represents and warrants that in executing this contract it does so with full knowledge of the rights and duties it may have with respect to the other. Each party also represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this contract and the rights and duties arising out of this contract, or that such party willingly foregoes any such consultation.

C-27. NO RELIANCE ON REPRESENTATIONS.

Each party hereby represents and warrants that it is not relying, and has not relied, upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this contract may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.

C-28. REDUCTION OF CONSIDERATION.

CONTRACTOR agrees that COUNTY shall have the right to deduct from any payments specified in Attachment B any amount owed to COUNTY by CONTRACTOR as a result of any obligation arising prior to, or after, the execution of this contract. For purposes of this paragraph, obligations arising prior to, or after, the execution of this contract may include, without limitation, any property tax, secured or unsecured, which tax is in arrears. If COUNTY exercises the right to reduce the consideration specified in Attachment B, COUNTY, at the time of making a reduced payment, shall give CONTRACTOR notice of the amount of any off-set and the reason for the reduction.

C-29. COUNTERPARTS.

This contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one contract.

END OF ATTACHMENT C.

ATTACHMENT D

SPECIFIC TERMS AND CONDITIONS

- D-1. CONTRACTOR shall comply specifically with Division 5 of the Welfare and Institutions Code, Titles 9 and 22 of the California Code of Regulations, and all statutes and regulations related thereto.
- D-2. CONTRACTOR shall adhere to all statutes and regulations governing the confidentiality of records.
- D-3. CONTRACTOR shall maintain all patient records in compliance with all appropriate federal, state and local requirements.
- D-4. CONTRACTOR shall comply with all Patients' Rights statutes and regulations.
- D-5. CONTRACTOR shall ensure that all pertinent admissions and length of stay requests comply with utilization review regulations.
- D-6. CONTRACTOR shall ensure that appropriate service and financial records are maintained and retained at least four (4) years or until audit findings are resolved, whichever is later.
- D-7. State and County agencies shall have the right to inspect all records to evaluate the cost, quality, appropriateness and time lines of services.
- D-8. **CONTRACTOR** agrees to complete and return to COUNTY the Provider Satisfaction Survey when **COUNTY** provides such.
- D-9. Facility access for handicapped persons shall comply with Section 504 of the Rehabilitation Act of 1973.
- D-10. COUNTY shall transfer patients in compliance with the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395dd ("EMTALA")
- D-11. In the event of a medical emergency, either psychiatric or non-psychiatric, **CONTRACTOR** shall stabilize and treat or transfer patients in accordance with Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395dd ("EMTALA"). **COUNTY** agrees that all screenings and stabilizing services provided by a **CONTRACTOR** in a medical emergency are services covered by **COUNTY** under this agreement.

- D-11. The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (HIPAA). Each party understands that, as a provider of medical treatment services, it is a "covered entity" under HIPAA, and as such, has obligations with respect to the confidentiality, privacy, and security of patients' medical information, and must take certain steps to preserve the confidentiality of this information, including the training of staff and the establishment of proper procedures for the release of such information, including the use of appropriate patient authorizations specified under HIPAA.
- D-12. As to all insurance coverage required herein, any deductible or self-insured retention exceeding 1% of company's annual gross earnings or \$5,000 for an individual shall be disclosed to and be subject to approval by County Risk Manager, prior to the effective date of this contract.
- D-13. If any insurance coverage required hereunder is provided on a "claim made" rather than "occurrence" form, **CONTRACTOR** shall maintain such insurance coverage with an effective date earlier or equal to the effective date of the contract and continue coverage for a period of three (3) years after the expiration of the contract and any extensions thereof.
- D-14. In lieu of maintaining post-contract expiration coverage as specified above, **CONTRACTOR** may satisfy this provision by purchasing tail coverage for the "claims made" policy. Such tail coverage shall, at a minimum, provide coverage for claims received and reported three (3) years after the expiration of this contract.

END ATTACHMENT D

ATTACHMENT E

HEALTH INSURANCE PORTIBILITY AND ACCOUNTIBILITY ACT

The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (HIPAA). Each party understands that, as a provider of medical treatment services, it is a "covered entity" under HIPAA, and as such, has obligations with respect to the confidentiality, privacy, and security of patients' medical information, and must take certain steps to preserve the confidentiality of this information, including the training of staff and the establishment of proper procedures for the release of such information, including the use of appropriate patient authorizations specified under HIPAA.

END ATTACHMENT E

ATTACHMENT F

TRANSPORTATION RESPONSIBILITY

COUNTY shall be solely responsible, at COUNTY's expense, for arranging for transportation of all patients to CONTRACTOR for services, and for arranging for transportation of all patients discharged from CONTRACTOR, including determining and arranging for the location to which patients are transported. COUNTY shall cooperate with CONTRACTOR as necessary in the transportation of patients. Upon discharge of a patient from CONTRACTOR, CONTRACTOR shall have no further responsibility for the care and treatment of such discharged patient. (See Section C-1 for indemnification regarding responsibility for transportation.)

ATTACHMENT G

INSURANCE

The COUNTY certifies that it maintains a program of insurance and self-insurance that covers its activities in connection with this Contract as follows

1.01. Evidence of Coverage:
Prior to commencement of this Contract, the COUNTY shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the COUNTY upon request shall provide a certified copy of the policy or policies. This verification of coverage shall be sent to the CONTRACTOR's Contracts/Purchasing Department, unless otherwise directed. The COUNTY shall not receive a "Notice to Proceed" with the work under this Contract until it has obtained all insurance required and the CONTRACTOR has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the COUNTY.

1.02 Qualifying Insurers: All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the CONTRACTOR's Purchasing Manager.

1.03 Insurance Coverage Requirements: Without limiting COUNTY's duty to indemnify, COUNTY shall maintain in effect throughout the term of this Contract a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Contract, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Workers' Compensation Insurance, if COUNTY employs others in the performance of this Contract, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the COUNTY shall, upon the expiration or earlier termination of this Contract, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Contract.

1.04. Other Insurance Requirements:

All insurance required by this Contract shall be with a company acceptable to the CONTRACTOR and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Contract, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Contract.

Each liability policy shall provide that the CONTRACTOR shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for COUNTY and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Contract, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the COUNTY's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the CONTRACTOR and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the COUNTY's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Contract by the CONTRACTOR, COUNTY shall file certificates of insurance with the CONTRACTOR's contract administrator and CONTRACTOR's Contracts/Purchasing Division, showing that the COUNTY has in effect the insurance required by this Contract. The COUNTY shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Contract, which shall continue in full force and effect.

COUNTY shall at all times during the term of this Contract maintain in force the insurance coverage required under this Contract and shall send, without demand by CONTRACTOR, annual certificates to CONTRACTOR's Contract Administrator and CONTRACTOR's Contracts/Purchasing Division. If the certificate is not received by the expiration date, CONTRACTOR shall notify COUNTY and COUNTY shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by COUNTY to maintain such insurance is a default of this Contract, which entitles CONTRACTOR, at its sole discretion, to terminate this Contract immediately.

C O N T R A C T

The COUNTY OF SAN BENITO ("COUNTY") and COUNTY OF MONTEREY ("CONTRACTOR") enter into this contract which shall be effective on the date stated in Paragraph 1.

1. Duration of Contract.

This contract shall commence on July 1, 2011 and end on June 30, 2013, unless sooner terminated as specified herein.

2. Scope of Services.

CONTRACTOR, for COUNTY's benefit shall perform the services specified on Attachment A to this contract. Attachment A is made a part of this contract.

3. Compensation for Services.

In consideration for CONTRACTOR's performance, COUNTY shall pay compensation to CONTRACTOR according to the terms specified in Attachment B. Attachment B is made a part of this contract.

4. General Terms and Conditions.

The rights and duties of the parties to this contract are governed by the general terms and conditions mutually agreed to and listed in Attachment C. Attachment C is made a part of this contract.

5. Insurance Limits.

CONTRACTOR shall maintain the following insurance policy limits of coverage consistent with the further insurance requirements specified in Attachment C.

- (a) Comprehensive general liability insurance: \$1,000,000
- (b) Professional liability insurance: \$1,000,000
- (c) Comprehensive motor vehicle liability insurance: \$1,000,000

6. Termination.

The number of days of advance written notice required for termination of this contract is 30 days.

7. Specific Terms and Conditions (check one)

- There are no additional provisions to this contract.
- The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment D. Attachment D is made a part of this contract.
- The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment E. Attachment E is made a part of this contract.

8. Information about Contract Administrators.

The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

Contract Administrator for COUNTY:

Name: Alan Yamamoto

Title: Behavioral Health Director

Address: 1131 San Felipe Road

Hollister, California 95023

Telephone No.: (831) 636-4020

Fax No.: (831) 636-4025

Contract Administrator for CONTRACTOR:

Name: Sid Cato

Title: Contracts Manager

Address: P.O. Box 81611

Salinas, CA 93912

Telephone No.: (831) 755-4223

Fax No.: _____

SIGNATURES

APPROVED BY COUNTY:

Name: _____

Chair, San Benito County Board of Supervisors

Date: _____

APPROVED BY CONTRACTOR:

Name: [Signature]

Title: Chief Executive Officer

Date: 1/26/12

APPROVED AS TO LEGAL FORM:

San Benito County Counsel

By: _____

Date: _____

[Signature]
1/31/12

Reviewed as to legal provisions
[Signature]
Auditor/Controller
County of Monterey

1-31-12

ATTACHMENT A

Scope of Services

1 The **Mental Health Unit** will provide acute psychiatric inpatient services to county residents when such services are available and bed capacity allows pursuant to this contract:

- a. Acute Psychiatric Inpatient Care will include medical and psychiatric evaluations, psychological and social assessments, when ordered after admission to the mental health unit by the patient's attending physician, laboratory testing for physical illness causing or complicating mental health care, individual and group therapy, other treatments, as indicated, such as recreational and occupational therapies. Effective treatment will be of high standard in the least restrictive mode.

2 **SERVICES INCLUDED**

- a. Routine Laboratory Studies:

MHU will provide, as part of its all-inclusive rate, the following tests when ordered after admission to the mental health unit by the patient's attending physician to permit screening for physical illness, drug and medication intoxications and ongoing routine medical care: Blood cell profile, urine analysis (with pregnancy tests in selected women), tests for infectious disease, such as tuberculosis, by either a purified protein derivative (PPD) skin test or chest x-ray, serum test for syphilis, a "large panel" or any part thereof, electrolytes and thyroid function tests (T-3,T-4) electrocardiogram, urine toxicology screen, blood lithium levels, "rule out" streptococcus throat culture, urine culture, antibiotic sensitivities, thyroid stimulating hormone test and carbamazepine levels.

Special laboratory and medical tests that may be obtain under the all-inclusive rate may include, but not be limited to, routine throat culture, serum foliate, and B- 12 levels, electroencephalograms, skull films, computerized tomography of the brain, radionuclear brain and thyroid tests, serum bromide levels, dexamethasone suppression tests, serum tricyclic antidepressant levels and serum ceruloplasm titers.

- b. Routine Medical Examinations:

MHU will provide as part of its all-inclusive rate for **COUNTY's** patients routine medical history and physical examination on each new admission within 24 hours by a primary care clinician (family physician, nurse practitioner, physician's assistant or other staff physician) as part of the admission diagnostic assessment. The MHU will also provide brief consultations for medical problems that may arise subsequent to admission. The primary care clinician will do this.

- c. Special Medical Examinations:

Non-routine medical care or diagnostic consultations and evaluations for psychiatrically related problems may be obtained under the all-inclusive rate which may include, but not be limited to internal medicine or endocrinologic consultations or specialized radiographic examinations of the brain. Approval shall be obtained from MHU Medical Director prior to ordering special examinations.

Non-psychiatrically related medical or dental care will be charged either to the patient or the other third party medical care programs, i.e. MediCal, private insurance.

d. Medications:

Routine medications necessary for patient's care in treatment will be provided while in the hospital. Patients will be provided prescription(s) at the time of discharge, as necessary for continuity of medical treatment.

e. Conduct of Care:

Care provided to patients will be in accordance with JCAHO standards, Medical Staff By-Laws and Rules and Regulations, Hospital By-Laws and Rules and Regulations of the Department of Psychiatry of Natividad Medical Center. There will be individualized treatment plans and documented daily progress notes indicating results of treatment, changes in medication, complications to treatment, changes in legal status and other pertinent matters relating to the patient's care.

As clinically feasible, the patients will be allowed full participation in routine treatment activities including individual and group psychotherapy, occupational therapy, activities and community meetings. Patients shall be given complete information and education about psychotropic medications, the side effects, dosages and reasons for their use. All voluntary patients must have signed consent to receive psychotropic medications and be provided with written information about their particular medications, if they so request.

END OF ATTACHMENT A

ATTACHMENT B

Payment Schedule

B - 1. BILLING

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (check one)

- One month in arrears.
- Upon the complete performance of the services specified in Attachment A.
- The basis specified in paragraph B-4.

B - 2. PAYMENT

COUNTY shall make payment to CONTRACTOR at the address specified in paragraph 8 of this contract, net thirty (30) days from the invoice date.

B - 3. COMPENSATION

COUNTY shall pay to CONTRACTOR: (check one)

- A total lump sum payment, or
- A total sum not to exceed two hundred fifty thousand dollars (\$250,000.00) for services rendered pursuant to the terms and conditions of this contract and pursuant to any special compensation terms specified in this Attachment B.

B - 4. SPECIAL COMPENSATION TERMS: (Check one)

- There are no additional terms of compensation
- The following specific terms of compensation shall apply: (specify)

- a. COUNTY agrees to pay CONTRACTOR monthly at an interim rate of one thousand one hundred seventy two dollars & seventy one cents (\$1172.71) per day for inpatient services provided under this Agreement. Upon submission of the year end cost report, final payment will be settled based upon actual cost per day derived in conformance with the Cost Report/Data Collection & Short-Doyle/Medi-Cal procedures set forth by the California State Department of Mental Health, or the current year's Short-Doyle/Medi-Cal Maximum Reimbursement Rate, whichever is less.
- b. **Exhaustion of County Funds.** CONTRACTOR agrees and understands that services are to be provided for the entire contract period and that patients will be screened and selected on the basis of need for treatment and availability of funds. If, for any reason, COUNTY estimates that it will exhaust the amounts stated herein as the maximum financial obligation of the COUNTY, COUNTY shall provide CONTRACTOR with forty-five (45) days notice prior to the exhaustion of funds.

Upon exhaustion by the COUNTY of the amounts stated herein as the maximum financial obligation of the COUNTY for the contract period, CONTRACTOR is relieved of any and all obligations under this Agreement. CONTRACTOR agrees to provide COUNTY with fifteen (15) days' notice prior to terminating this Agreement under this paragraph.

Should additional funds be obtained by COUNTY subsequent to exhaustion of COUNTY fund, COUNTY shall provide CONTRACTOR with fourteen (14) days' notice of additional funds and of willingness to amend this Agreement accordingly. At the end of this notice period, CONTRACTOR shall again be subject to all obligations under this Agreement for the remainder of the contract period.

- c. **Responsibility for Audit Exceptions.** Where COUNTY's funding sources under this Agreement are COUNTY and/or State appropriations, COUNTY is responsible for administering the program described herein. CONTRACTOR agrees to accept responsibility for receiving, replying, to and/or complying with any audit exceptions by appropriate Federal, State or County audit agencies. Appeals shall be handled through processes established by the State Department of Mental Health. CONTRACTOR also agrees to pay to COUNTY the full amount of any liability found to be due COUNTY as a result of said audit exceptions. COUNTY agrees to pay CONTRACTOR any additional amounts found to be due as a result of said audit exceptions, not to exceed the maximum financial obligation of COUNTY under this Agreement.
- d. **Overpayment/Underpayment.** When mutually agreed upon, overpayment or underpayment may be handled by adjustments to payments in subsequent fiscal year. Overpayment as determined by audits shall be payable to COUNTY within forty-five (45) days after of said determination. Overpayment held in excess of forty-five (45) days after demand has been made shall be subject to a penalty charge of a flat twelve (12%) percent per annum. Underpayment as determined by audits shall be payable to CONTRACTOR within forty-five (45) days after date of said determination. Underpayment held in excess of forty-five (45) days shall be subject to a penalty charge of a flat twelve (12%) percent per annum.
- e. **Eligibility and Billing Disputes.** COUNTY responsible patients are those patients who have no private insurance including Medi-Cal and/or Medicare and who have no private financial resources, specifically those clients whose financial resources are such that they have an annual financial liability of less than Three Hundred Dollars (\$300) per year, as determined by the Department of Mental Health fee evaluation scale.

END OF ATTACHMENT B

ATTACHMENT C General Terms and Conditions

C-1. INDEMNIFICATION.

CONTRACTOR and COUNTY each agree to indemnify, defend and save harmless the other party and the other party's officers and employees, from and against any and all claims and losses whatsoever arising out of, or in any way related to, the indemnifying party's performance under this contract, including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorneys' fees, court costs, investigation costs, and experts' fees) incurred by the indemnitee in connection with such claims or losses. A party's "performance" includes the party's action or inaction and the action or inaction of that party's officers and employees.

Notwithstanding the above indemnification provision, COUNTY and CONTRACTOR agree that CONTRACTOR's duty to indemnify COUNTY shall be limited solely to any claim arising from the act or omission of CONTRACTOR with respect to a patient which occurs during the period from admission of the patient to CONTRACTOR until the discharge or transfer of the patient from CONTRACTOR (the "Indemnification Period"). CONTRACTOR shall have no duty to indemnify COUNTY with respect to any claim arising from an act or omission occurring at any time other than the Indemnification Period, including without limitation during transport of patients to or from CONTRACTOR, which transport shall be solely the responsibility of COUNTY as specified in Attachment F of this contract which is hereby incorporated by reference.

C-2. GENERAL INSURANCE REQUIREMENTS.

Without limiting CONTRACTOR's duty to indemnify COUNTY, CONTRACTOR shall comply with the insurance coverage requirements set forth in the contract and in this attachment. Those insurance policies mandated by Paragraph C-3 shall satisfy the following requirements:

- (a) Each policy shall be issued by a company authorized by law to transact business in the State of California.
- (b) Each policy shall provide that COUNTY shall be given notice in writing at least thirty (30) days in advance of any change, cancellation, or nonrenewal thereof.
- (c) The comprehensive motor vehicle and comprehensive general liability policies shall each provide an endorsement naming the County of San Benito and its officers, agents and employees as additional insureds.
- (d) The required coverage shall be maintained in effect throughout the term of this contract.

CONTRACTOR shall require all subcontractors performing work under this contract to obtain substantially the identical insurance coverage required of CONTRACTOR pursuant to this agreement.

C-3. INSURANCE COVERAGE REQUIREMENTS.

If required by paragraph 5 of the contract, CONTRACTOR shall maintain the following insurance policies in full force and effect during the term of this contract:

- (a) Comprehensive general liability insurance. CONTRACTOR shall maintain comprehensive general liability insurance, covering all of CONTRACTOR's operations with a combined single limit of not less than the amount set out in paragraph 5 of this contract.
- (b) Professional liability insurance. CONTRACTOR shall maintain professional liability insurance with liability limits of not less than the amount set out in paragraph 5 of this contract.
- (c) Comprehensive motor vehicle liability insurance. CONTRACTOR shall maintain comprehensive motor vehicle insurance covering all motor vehicles (including owned, non-owned and hired) used in providing services under this contract, with a combined single limit of not less than the amount set out in Paragraph 5 of this contract.
- (d) Workers' compensation insurance. CONTRACTOR shall maintain a workers' compensation plan covering all of its employees as required by California Labor Code Section 3700, either through workers' compensation insurance issued by an insurance company or through a plan of self-insurance certified by the State Director of Industrial Relations. If CONTRACTOR elects to be self-insured, the certificate of insurance otherwise required by this contract shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations.

C-4. CERTIFICATE OF INSURANCE.

Prior to the commencement of performance of services by CONTRACTOR and prior to any obligations of COUNTY, CONTRACTOR shall file certificates of insurance with COUNTY, showing that CONTRACTOR has in effect the insurance required by this contract. CONTRACTOR shall file a new or amended certificate promptly after any change is made in any insurance policy which would alter the information on the certificate then on file. In lieu of providing proof of insurance, CONTRACTOR may provide proof of self-insurance meeting requirements equivalent to those imposed herein. CONTRACTOR warrants that CONTRACTOR's self-insurance provides substantially the same protection to COUNTY as the insurance required herein. CONTRACTOR further agrees to notify COUNTY in the event any change in self-insurance occurs that would alter the obligations undertaken in this contract within thirty (30) days of such change.

C-5. RECORDS TO BE MAINTAINED.

CONTRACTOR shall keep and maintain accurate records of all costs incurred and all time expended for work under this contract. CONTRACTOR shall contractually require that all of CONTRACTOR's subcontractors performing work called for under this contract also keep and maintain such records. All such records, whether kept by CONTRACTOR or any subcontractor, shall be made available to COUNTY or its authorized representative, or officials of the State of California for review or audit during normal business hours, upon reasonable advance notice given by COUNTY, its authorized representative, or officials of the State of California.

C-6. RETENTION OF RECORDS.

CONTRACTOR shall maintain and preserve all records related to this contract for a period of three years from the close of the fiscal year in which final payment under this contract is made. CONTRACTOR shall also contractually require the maintenance of such records in the possession of any third party performing work related to this contract for the same period of time. Such records shall be retained beyond the three-year period, if any audit involving such records is then pending, until the audit findings are resolved. The obligation to insure the maintenance of the records beyond the initial three year period shall arise only if the COUNTY notifies CONTRACTOR of the commencement of an audit prior to the expiration of the three year period.

C-7. TITLE TO DOCUMENTS; COPYRIGHT.

All reports and other materials collected or produced by the CONTRACTOR or any subcontractor of CONTRACTOR shall, after completion and acceptance of the contract, become the property of COUNTY, and shall not be subject to any copyright claimed by the CONTRACTOR, subcontractor, or their agents or employees. CONTRACTOR may retain copies of all such materials exclusively for administrative purposes. Any use of completed or uncompleted documents for other projects by CONTRACTOR, any subcontractor, or any of their agents or employees, without the prior written consent of COUNTY is prohibited.

C-8. INDEPENDENT CONTRACTOR.

CONTRACTOR and its officers and employees, in the performance of this contract, are independent contractors in relation to COUNTY and not officers or employees of COUNTY. Nothing in this contract shall create any of the rights, powers, privileges or immunities of any officer or employee of COUNTY. CONTRACTOR shall be solely liable for all applicable taxes or benefits, including, but not limited to, federal and state income taxes, Social Security taxes, or ERISA retirement benefits, which taxes or benefits arise out of the performance of this contract. CONTRACTOR further represents to COUNTY that CONTRACTOR has no expectation of receiving any benefits incidental to employment.

C-9. CONFLICT OF INTEREST.

CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. CONTRACTOR further covenants that, in the performance of this contract, no subcontractor or person having such an interest shall be used or employed.

C-10. COMPLIANCE WITH APPLICABLE LAWS.

CONTRACTOR shall comply with all applicable federal, state and local laws now, or hereafter, in force, and with any applicable regulations, in performing the work and providing the services specified in this contract. This obligation includes, without limitation, the acquisition, and maintenance of any permits, licenses, or other entitlements necessary to perform the duties imposed expressly or impliedly under this contract.

C-11. NONDISCRIMINATION.

CONTRACTOR shall not discriminate in the employment of persons necessary to perform this contract on any legally impermissible basis, including on the basis of the race, color, national origin, ancestry, religion, age, sex, or disability of such person.

C-12. BANKRUPTCY.

CONTRACTOR shall immediately notify COUNTY in the event that CONTRACTOR ceases conducting business in the normal manner, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors.

C-13. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION OF DUTIES.

Except as specifically authorized herein, no rights under this contract may be assigned and no duties under this contract may be delegated by CONTRACTOR without the prior written consent of COUNTY, and any attempted assignment or delegation without such consent shall be void.

C-14. NEGOTIATED CONTRACT.

This contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this contract within the meaning of California Civil Code Section 1654.

C-15. SEVERABILITY.

Should any provision herein be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect. To this end, the provisions of this contract are declared to be severable.

C-16. ENTIRE CONTRACT.

This contract is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this contract or in any document attached hereto or incorporated herein by reference.

C-17. TIME IS OF THE ESSENCE.

Time is of the essence in the performance of this contract.

C-18. TERMINATION.

Either party may terminate this contract, with or without cause, at any time. In order to terminate this contract, the terminating party shall give advance written notice to the other party. The termination shall be effective no earlier than the expiration of the number of days specified in paragraph 6 of this contract. The termination notice shall be made as specified in paragraph C-

19, below. In the event of termination, COUNTY shall pay CONTRACTOR for all work satisfactorily performed prior to the effective date of the termination.

C-19. NOTICES.

Notices to the parties in connection with the administration of this contract shall be given to the parties' contract administrator personally, by regular mail, or by facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

- (a) The day the notice is personally delivered to the contract administrator or the office of the party's contract administrator; or
- (b) Five days after the date the notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, with first-class postage fully prepaid; or
- (c) On the day that the notice is transmitted by facsimile to a party's facsimile number specified in paragraph 8 of this contract, provided that an original of such notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, on the same day as the facsimile transmission is made.

C-20. RESPONSIBILITY OF CONTRACT ADMINISTRATORS.

All matters concerning this contract which are within the responsibility of the parties shall be under the direction of, or shall be submitted to, the respective contract administrators or to the party's employee specified, in writing, by the contract administrator. A party may, in its sole discretion, change its designation of its contract administrator and shall promptly give written notice to the other party of any such change.

C-21. MATERIALITY.

The parties consider each and every term, covenant, and provision of this contract to be material and reasonable.

C-22. WAIVER.

Waiver by either party of a breach of any covenant of this contract will not be construed to be a continuing waiver of any subsequent breach. COUNTY's receipt of consideration with knowledge of CONTRACTOR's violation of a covenant does not waive its right to enforce any covenant of this contract. The parties shall not waive any provisions of this contract unless the waiver is in writing and signed by all parties.

C-23. AUTHORITY AND CAPACITY.

CONTRACTOR and CONTRACTOR's signatory each warrant and represent that each has full authority and capacity to enter into this contract.

C-24. BINDING ON SUCCESSORS.

All of the conditions, covenants and terms herein contained shall apply to, and bind, the heirs, successors, executors, administrators and assigns of CONTRACTOR. CONTRACTOR and all of CONTRACTOR's heirs, successors, executors, administrators, and assigns shall be jointly and severally liable under this contract.

C-25. CUMULATION OF REMEDIES.

All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and no one of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.

C-26. INDEPENDENT ADVICE.

Each party hereby represents and warrants that in executing this contract it does so with full knowledge of the rights and duties it may have with respect to the other. Each party also represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this contract and the rights and duties arising out of this contract, or that such party willingly foregoes any such consultation.

C-27. NO RELIANCE ON REPRESENTATIONS.

Each party hereby represents and warrants that it is not relying, and has not relied, upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this contract may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.

C-28. REDUCTION OF CONSIDERATION.

CONTRACTOR agrees that COUNTY shall have the right to deduct from any payments specified in Attachment B any amount owed to COUNTY by CONTRACTOR as a result of any obligation arising prior to, or after, the execution of this contract. For purposes of this paragraph, obligations arising prior to, or after, the execution of this contract may include, without limitation, any property tax, secured or unsecured, which tax is in arrears. If COUNTY exercises the right to reduce the consideration specified in Attachment B, COUNTY, at the time of making a reduced payment, shall give CONTRACTOR notice of the amount of any off-set and the reason for the reduction.

C-29. COUNTERPARTS.

This contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one contract.

END OF ATTACHMENT C.

ATTACHMENT D

SPECIFIC TERMS AND CONDITIONS

- D-1. CONTRACTOR shall comply specifically with Division 5 of the Welfare and Institutions Code, Titles 9 and 22 of the California Code of Regulations, and all statutes and regulations related thereto.
- D-2. CONTRACTOR shall adhere to all statutes and regulations governing the confidentiality of records.
- D-3. CONTRACTOR shall maintain all patient records in compliance with all appropriate federal, state and local requirements.
- D-4. CONTRACTOR shall comply with all Patients' Rights statutes and regulations.
- D-5. CONTRACTOR shall ensure that all pertinent admissions and length of stay requests comply with utilization review regulations.
- D-6. CONTRACTOR shall ensure that appropriate service and financial records are maintained and retained at least four (4) years or until audit findings are resolved, whichever is later.
- D-7. State and County agencies shall have the right to inspect all records to evaluate the cost, quality, appropriateness and time lines of services.
- D-8. **CONTRACTOR** agrees to complete and return to COUNTY the Provider Satisfaction Survey when **COUNTY** provides such.
- D-9. Facility access for handicapped persons shall comply with Section 504 of the Rehabilitation Act of 1973.
- D-10. COUNTY shall transfer patients in compliance with the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395dd ("EMTALA")
- D-11. In the event of a medical emergency, either psychiatric or non-psychiatric, **CONTRACTOR** shall stabilize and treat or transfer patients in accordance with Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395dd ("EMTALA"). **COUNTY** agrees that all screenings and stabilizing services provided by a **CONTRACTOR** in a medical emergency are services covered by **COUNTY** under this agreement.

- D-11. The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (HIPAA). Each party understands that, as a provider of medical treatment services, it is a "covered entity" under HIPAA, and as such, has obligations with respect to the confidentiality, privacy, and security of patients' medical information, and must take certain steps to preserve the confidentiality of this information, including the training of staff and the establishment of proper procedures for the release of such information, including the use of appropriate patient authorizations specified under HIPAA.
- D-12. As to all insurance coverage required herein, any deductible or self-insured retention exceeding 1% of company's annual gross earnings or \$5,000 for an individual shall be disclosed to and be subject to approval by County Risk Manager, prior to the effective date of this contract.
- D-13. If any insurance coverage required hereunder is provided on a "claim made" rather than "occurrence" form, **CONTRACTOR** shall maintain such insurance coverage with an effective date earlier or equal to the effective date of the contract and continue coverage for a period of three (3) years after the expiration of the contract and any extensions thereof.
- D-14. In lieu of maintaining post-contract expiration coverage as specified above, **CONTRACTOR** may satisfy this provision by purchasing tail coverage for the "claims made" policy. Such tail coverage shall, at a minimum, provide coverage for claims received and reported three (3) years after the expiration of this contract.

END ATTACHMENT D

ATTACHMENT E

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (HIPAA). Each party understands that, as a provider of medical treatment services, it is a "covered entity" under HIPAA, and as such, has obligations with respect to the confidentiality, privacy, and security of patients' medical information, and must take certain steps to preserve the confidentiality of this information, including the training of staff and the establishment of proper procedures for the release of such information, including the use of appropriate patient authorizations specified under HIPAA.

END ATTACHMENT E

ATTACHMENT F

TRANSPORTATION RESPONSIBILITY

COUNTY shall be solely responsible, at COUNTY's expense, for arranging for transportation of all patients to CONTRACTOR for services, and for arranging for transportation of all patients discharged from CONTRACTOR, including determining and arranging for the location to which patients are transported. COUNTY shall cooperate with CONTRACTOR as necessary in the transportation of patients. Upon discharge of a patient from CONTRACTOR, CONTRACTOR shall have no further responsibility for the care and treatment of such discharged patient. (See Section C-1 for indemnification regarding responsibility for transportation.)

ATTACHMENT G

INSURANCE

The COUNTY certifies that it maintains a program of insurance and self-insurance that covers its activities in connection with this Contract as follows

1.01. Evidence of Coverage:

Prior to commencement of this Contract, the COUNTY shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the COUNTY upon request shall provide a certified copy of the policy or policies. This verification of coverage shall be sent to the CONTRACTOR's Contracts/Purchasing Department, unless otherwise directed. The COUNTY shall not receive a "Notice to Proceed" with the work under this Contract until it has obtained all insurance required and the CONTRACTOR has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the COUNTY.

1.02 Qualifying Insurers: All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the CONTRACTOR's Purchasing Manager.

1.03 Insurance Coverage Requirements: Without limiting COUNTY's duty to indemnify, COUNTY shall maintain in effect throughout the term of this Contract a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Contract, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Workers' Compensation Insurance, if COUNTY employs others in the performance of this Contract, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the COUNTY shall, upon the expiration or earlier termination of this Contract, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Contract.

1.04. Other Insurance Requirements:

All insurance required by this Contract shall be with a company acceptable to the CONTRACTOR and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Contract, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Contract.

Each liability policy shall provide that the CONTRACTOR shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for COUNTY and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Contract, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the COUNTY's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the CONTRACTOR and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the COUNTY's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Contract by the CONTRACTOR, COUNTY shall file certificates of insurance with the CONTRACTOR's contract administrator and CONTRACTOR's Contracts/Purchasing Division, showing that the COUNTY has in effect the insurance required by this Contract. The COUNTY shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Contract, which shall continue in full force and effect.

COUNTY shall at all times during the term of this Contract maintain in force the insurance coverage required under this Contract and shall send, without demand by CONTRACTOR, annual certificates to CONTRACTOR's Contract Administrator and CONTRACTOR's Contracts/Purchasing Division. If the certificate is not received by the expiration date, CONTRACTOR shall notify COUNTY and COUNTY shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by COUNTY to maintain such insurance is a default of this Contract, which entitles CONTRACTOR, at its sole discretion, to terminate this Contract immediately.