



RESOLUTION No. 20-080

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION APPROVING THE EXECUTION OF AMENDMENT NO. 1 TO THE PERSONAL SERVICES CONTRACT WITH ST. HELENA HOSPITAL DBA ADVENTIST HEALTH ST. HELENA FOR THE PROVISION OF ACUTE PSYCHIATRIC INPATIENT HOSPITALIZATION SERVICES TO: 1) REVISE EXHIBIT "A", "SCHEDULE OF SERVICES", TO INCLUDE UPDATED LANGUAGE; 2) REVISE EXHIBIT "B", "SCHEDULE OF CHARGES AND PAYMENTS", TO REFLECT THE UPDATED RATE STRUCTURE; 3) REVISE EXHIBIT "C", "SCHEDULE OF CHANGES" AND 4) REVISE EXHIBIT "D", "SCHEDULE OF HIPAA PROVISIONS" (RES. 19-371)

WHEREAS, Contractor provides psychiatric inpatient hospital services to county clients as referred and authorized for services by Nevada County Behavioral Health Department; and

WHEREAS, on July 9, 2019, per Resolution 19-371, the Nevada County Board of Supervisors authorized the execution of the Renewal Personal Services Contract between the County of Nevada and St. Helena Hospital dba Adventist Health St. Helena pertaining to mandated services for medically necessary inpatient services to eligible residents of Nevada County who have a mental illness and / or emotional disturbances that require acute psychiatric hospitalization services; and

WHEREAS, the parties desire to amend the Personal Services Contract to include updated language and rate structure for services.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada, State of California, that Amendment No. 1 to the Personal Services Contract by and between the County and St. Helena Hospital dba Adventist Health St. Helena pertaining to the provision of acute psychiatric inpatient hospital services for County referred clients, to revise Exhibit "A" Schedule of Services, to include updated language; to revise Exhibit "B" Schedule of Charges and Payments, to reflect the updated rate structure and reflect therein the maximum amount of \$110,000 for the contract term of July 1, 2019 through June 30, 2021; to revise Exhibit "C" Schedule of Changes, and to revise Exhibit "D" Schedule of HIPAA provisions, be and hereby is approved as attached hereto, and that the Chair of the Board of Supervisors be and is hereby authorized to execute the Amendment on behalf of the County of Nevada.

Funds in the amount of \$55,000 to be encumbered for Fiscal Year 2019/20. Funds to be disbursed from account: 1589-40110-493-8201/521520.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 24th day of March, 2020, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller,
Susan K. Hoek and Richard Anderson

Noes: None.

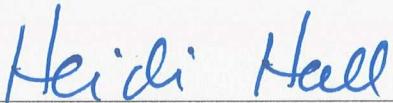
Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 


Heidi Hall, Chair

3/24/20 cc: B Health*
A-C* (Hold)

3/30/2020 cc: B Health *
Adventist Health (1)
A-C*

AMENDMENT NO. 1 TO THE CONTRACT BETWEEN THE COUNTY OF NEVADA, BEHAVIORAL HEALTH DEPARTMENT, AND ST. HELENA HOSPITAL D/B/A ADVENTIST HEALTH ST. HELENA (RES 19-371)

THIS AMENDMENT is executed this 24th day of March, 2020 by and between ST. HELENA HOSPITAL D/B/A ADVENTIST HEALTH ST. HELENA and COUNTY OF NEVADA. Said Amendment will amend the prior contract between the parties entitled Personal Services Contract executed on July 9, 2019 per Resolution 19-371; and

WHEREAS, the Contractor provides services related to Psychiatric Inpatient Hospitalization Services under Welfare and Institutions Code Section 5150 for referred County Clients, Contract term of July 1, 2019 through June 30, 2021; and

WHEREAS, the parties desire to amend their agreement to: 1) revise Exhibit "A", "Schedule of Services", to include updated language; 2) revise Exhibit "B", "Schedule of Charges and Payments", to reflect the updated rate structure; 3) revise Exhibit "C", "Schedule of Changes" and 4) revise Exhibit "D", "Schedule of HIPAA Provisions.

NOW, THEREFORE, the parties hereto agree as follows:

1. That Amendment #1 shall be effective as of July 1, 2019.
2. That Exhibit "A", "Schedule of Services", shall be revised to the amended Exhibit "A" as attached hereto and incorporated herein.
3. That Exhibit "B", "Schedule of Charges and Payments", shall be revised to the amended Exhibit "B" as attached hereto and incorporated herein.
4. That Exhibit "C", "Schedule of Changes", shall be revised to the amended Exhibit "C" as attached hereto and incorporated herein.
5. That Exhibit "D", "Schedule of HIPAA Provisions.
6. For Covered Entity Contractors", shall be revised to the amended Exhibit "D" as attached hereto and incorporated herein.
7. That in all other respects the prior Agreement of the parties shall remain in full force and effect.

COUNTY OF NEVADA:

By: Heidi Hall
Heidi Hall
Chair, Board of Supervisors

Dated: 3-24-2020

CONTRACTOR:

By: Steven Hecker, MD
Executive Director

Dated: 3/9/20

Attest: Julie Patterson-Hunter
Julie Patterson-Hunter
Clerk of the Board of Supervisors

EXHIBIT "A"
SCHEDULE OF SERVICES
ST. HELENA HOSPITAL D/B/A ADVENTIST HEALTH ST. HELENA

St. Helena Hospital, D/B/A Adventist Health St Helena, a stand-alone facility, hereinafter referred to as "Contractor", shall provide acute psychiatric inpatient hospital services for clients referred by Nevada County Department of Behavioral Health, hereinafter referred to as "County".

Psychiatric inpatient hospital services rendered pursuant to this Contract shall be provided at the following facilities:

Adventist Health St. Helena
10 Woodland Road
St. Helena, California 94574

Contractor agrees to render psychiatric hospitalization inpatient services to eligible beneficiaries in need of such services and assumes full responsibility for provision of all psychiatric inpatient services in accordance with regulations adopted pursuant to Sections 5775, et seq. and 14680, et seq. of the Welfare and Institutions Code, through delegates, or as otherwise provided in this Contract.

Contractor shall provide and maintain facilities and professional allied and supportive paramedical personnel to provide all necessary psychiatric inpatient mental health services.

Contractor shall provide and maintain the administrative capabilities to carry out its duties under this Contract and meet applicable statutes and regulations pertaining to delivery of inpatient mental health services.

Contractor hereby represents and warrants that it is currently, and for the duration of this Contract shall remain, licensed as a general acute care hospital or acute psychiatric hospital in accordance with Sections 1250 et seq. of the Health and Safety Code and the licensing regulations contained in Title 22 and Title 17 of the California Code of Regulations.

Other Contractor Responsibilities:

County clients admitted to Contractor's facility under Welfare and Institutions Code 5150 shall receive clinical and medical services which are generally recognized and accepted for the diagnosis and treatment of a behavioral disorder or psychological injury, as clinically necessary.

County is responsible for paying for care that meets one of the following criteria as outlined in Title 9. The primary concern with respect to all medical determinations shall be the interest of the patient. 1) Continued presence of admission reimbursement criteria as outlined in Title 9. 2) Serious adverse reaction to medications, procedures or therapies, requiring continued hospitalization, 3) Presence of new indications, which meet medical necessity criteria, specified in the Admissions criteria. 4) Need for continued medical

evaluation or treatment that can only be provided if the beneficiary remains in a psychiatric inpatient hospital.

An acute patient shall be considered stable when no deterioration of the patient's condition is likely, within reasonable medical probability, to result from or occur during the transfer of the patient from the hospital.

Contractor shall accept admission 24 hours per day, seven days per week, of persons referred under Section 5150 of the W & I Code by County's Behavioral Health Director or designee or County's Crisis Team, subject to bed availability and compliance with the Contractor's usual policies and procedures.

Should a County resident present himself/herself at Contractor's facility requesting admission, Contractor's Assessment Team will evaluate for 5150 admission. The Assessment Team shall consult with County's Crisis Team to complete the final authorization process.

If after admission, client is determined to have 3rd party payor, Contractor shall request payment authorization from the identified 3rd party payor source or arrange transportation to appropriate facility. COUNTY shall remain liable for services provided on day of admission and through client's transfer.

If after admission, client is determined not be a resident of Nevada County, Contractor shall arrange for client to be transported to County of residency or arrange for financial reimbursement from County of residency.

County shall be responsible for the transportation of client(s) to and from the facility.

Contractor's attending clinician, MD or psychologist, shall provide admission orders, as deemed appropriate by such professional, for clients referred by COUNTY'S Medical Director or designee of COUNTY'S Crisis Team, if psychologist designated, consultation and medication management must be provided by a psychiatrist.

Contractor shall develop and maintain policies and procedures specifically to include but not limited to:

- a. Admission, treatment and discharge of involuntary clients.
- b. Reviewing adverse incidents and unusual occurrences
- c. Accessing and intervening in all high-risk behaviors, including but not limited to suicide precaution, assault precautions and elopements.

Contractor shall assure inpatient staff are trained in and will properly implement Seclusion and Restraint Procedures, including documentation.

Contractor's Medical Director or designee shall prepare for legal proceeding and court testimony in response to the following:

- Writs of Habeas Corpus: Superior Court Due Process Hearing to determine whether a client should remain at facility involuntarily or be discharged.

- Certification Review/Probable Cause Hearing: Informal Due Process Hearing to determine whether hospital has probable cause to continue to involuntarily detain person on 14-day certification.
- Capacity Hearings: Hearing to determine whether client is capable of making informed consent to psychotropic medications.
- Minor's Clinical Review – Minor's Hearing after admission to determine whether further inpatient treatment is appropriate.

Contractor shall comply with all requirements of the Certification Review Hearings, Capacity Hearings, and Minor's Clinical Review as specified in the W & I Code. Specifically, the Contractor shall provide an appropriate location to conduct various hearings and shall designate a person to present evidence in support of the particular hearing.

Contractor shall provide a Patients' Rights Advocate for County clients pursuant to this Agreement. Contractor's Patients' Rights Advocate shall represent County clients in all Certification Review Hearings. Contractor's Patients' Rights Advocate shall be available in all circumstances related to client's rights, including but not limited to client of client's family requests for advocacy services, violation or conflicts with regard to client's rights and matters involving Probable Cause Hearings. Contractor shall provide for training of all Hearing Officers for Certification Review Hearings. County is responsible for reimbursing Solano County for the cost of the Patients Rights Advocate.

Contractor shall readily exchange client clinical, demographic and financial information related to this Agreement, as requested by COUNTY and permitted by applicable law.

The CONTRACTOR shall meet all of the documentation exchange requirements of the California Department of Health Care Services Informational Notice No. 19-026, Authorization of Specialty Mental Health Services, specifically requirements of Concurrent Review for Psychiatric Inpatient Hospitalization, The CONTRACTOR will provide relevant information on a daily basis related to Medical Necessity for all individuals whose services are billed to Medi-Cal.

Contractor shall provide COUNTY with copy of the following medical records for each discharged client no later than 60 days from the date of discharge of each client admitted pursuant to this agreement, unless the patient or their legal representative denies consent or such disclosure is otherwise not permitted under applicable law.

- Five Axis Diagnosis
- Medications used during stay
- Treatment Plan (during this hospitalization) including medical necessity.
- Course of treatment while hospitalized.
- Any testing done and results.
- Physician signature
- Aftercare Plan.

EXHIBIT "B"
SCHEDULE OF CHARGES AND PAYMENT
ST. HELENA HOSPITAL D/B/A ADVENTIST HEALTH ST. HELENA

The maximum payments from County to Contractor during the term of this Contract shall not exceed One Hundred Ten Thousand Dollars (\$110,000) for the entire contract term of July 1, 2019 through June 20, 2021. The Contract amount shall not exceed Fifty Five Thousand Dollars (\$55,000) for each fiscal year. No provision in this Contract withstanding, the County's total liability to the Contractor shall not exceed the Contractor's total customary charges for like services during term this Contract is in effect.

Contractor shall provide to County standard UB92 billing forms or its replacement including patient's name, the date of services, and the charges. County shall provide payment to Contractor within thirty (30) days of receipt of itemized statement.

Contractor shall use the Uniform Method of Determining Ability to Pay (UMDAP) prescribed by the State Director of Mental Health/Department of Health Care Services.

The reimbursement rates for County clients under this Contract are as follows:

	FY 2019/20	FY 2020/21
Per Diem Acute Facility Psychiatric Day Rate Medi-Cal	\$1,298.00 (Adult)	\$1,370.00 (Adult)
Plus daily doctor cost (Medi-Cal, Admin Days)*	\$110.00	\$116.00
Per Diem Short Doyle Day Rate/ Indigent	\$1,408.00 (Adult)	\$1,486.00 (Adult)
Administrative day rate	TBD by State	TBD by State

*Professional Fees are due every day patient is seen including discharge day and administrative days.

** The Administrative Day rate is subject to change, as specified and directed by the State of California Department of Healthcare Services. Any changes to the Administrative Day rate shall be incorporated by reference herein.

The above rate structure shall be automatically adjusted to the annual rate structure negotiated by Napa County Mental Health as the Host County.

County shall be the payor of last resort for the costs incurred for psychiatric treatment only after appropriate third-party payor sources (Medi-Cal, Medicare, prepaid health plans, private insurance, Veteran's Administration, Workers Compensation, State Disability, etc) and private or responsible sources have been billed and all revenues possible have been collected from these sources.

Hospital and County agree to meet and confer if, in the opinion of Hospital, the proposed patient admission will require utilization of Hospital's resources, or those purchased by Hospital specifically to provide services to the patient, to the extent that Hospital's daily charges for the client will exceed the All Inclusive Per Diem Rate recited in the Exhibit (not to include ECT) by 220%. In this circumstance, Hospital agrees to contact County immediately for the purpose of meeting and conferring on County's approval to Hospital to generate such expenditures and to compensate Hospital to the extent said expenditure exceed the average All Inclusive Per Diem Rate described by 220%. In such case, County may determine not to approve said expenditures and to remove the patient or make separate arrangements for ancillary services, in which case no additional payment by County shall be required. In the case that County determines to approve or continue the placement of the specific patient with Hospital, County and Hospital agree that County shall compensate Hospital at the rate of 154% of the actual per diem charges incurred. In the event of continuation of Hospital services, County shall inform Hospital of the proper procedure for submission of claims for said charges.

EXHIBIT "C"

SCHEDULE OF CHANGES

(Personal Services Contract - Mental Health)

BEHAVIORAL HEALTH PROVISIONS

Where Exhibit "C" revises the language in the Personal Services Contract, the provisions of Exhibit C shall govern and supersede any inconsistent provisions.

1. Section 1, Scope of Services, is revised to the following:

"Contractor shall provide all of the services, materials and products (herein "Services") generally described in Exhibit "A", according to a performance schedule, if applicable, as set forth in said exhibit (herein "Performance Schedule")."

2. Section 2, Charges and Payments, is revised to the following:

"2. Charges and Payments:

The charges (herein "Charges") for furnishing the aforesaid Services under this Contract are set forth in **Exhibit "B"**, including, if applicable, hourly rates, unit pricing, and expense, mileage and cost limits. Said Charges shall be presented within 180 days of date of services by invoice, and shall be due within thirty (30) days of receipt of said invoice unless payment is otherwise set forth in said **Exhibit "B"**, and shall remain in effect for the entire term of this Contract, and any extension hereof. In no event will the cost to County for Services to be provided under this Contract, including direct non-salary expenses, exceed the **Maximum Contract Price** set forth at §2, page one (1), of this Contract. If a Catalog of Federal Domestic Assistance ("CFDA") number is designated at §33, page one (1), of this Contract, then all components of compensation billed to County shall be calculated in accordance with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Chapter I, Chapter II, Part 200, et al (commonly referred to as the "OMB Super Circular" or "Uniform Guidance").

3. Section 6, Commercial General Liability Insurance, is deleted and replaced with the following:

"a. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

b. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

c. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. (Not required if contractor provides written verification it has no employees)

d. Professional Liability (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

e. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County."

4. Section 7, Automobile Liability Insurance, subparagraph (iv) is deleted and replaced with the following:

"a. Additional Insured Status: The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

b. Primary Coverage: For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

c. Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

d. Waiver of Subrogation: Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

e. Self-Insured Retentions: Self-insured retentions must be declared to and approved by the County. The County may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

f. Acceptability of Insurers: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

g. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis:

- i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

h. Verification of Coverage: Contractor shall furnish the County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to County before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

i. Subcontractors: Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

5. Section 10, Miscellaneous Insurance Provisions, 3rd Paragraph is deleted and replaced with the following:

"At all times, Contractor shall keep and maintain in full force and effect throughout the duration this Contract, programs of self- insurance and policies of insurance required by this Contract which policies shall be issued by companies with a Best's Ratings of B+ or higher (B+, B++, A-, A+, or A++), or a Best Financial Performance Rating (FPR) of 6 or higher (6,7,8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County Risk Manager. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required

to forthwith secure alternative policies which comply with the ratings required by this paragraph, or be in material breach of this Contract.”

6. Section 11 - Indemnity is deleted in its entirety and the following is substituted in its place and stead:

“11. Mutual Indemnification:

CONTRACTOR shall defend, indemnify, and hold harmless COUNTY, its affiliates, officers, directors, employees, counsel, agents, and assigns from and against any and all losses, liabilities, damages, costs (including, without limitation, court costs and costs of appeal), and expenses (including, without limitation, reasonable attorneys’ fees and expenses) (collectively, “Damages”) caused or alleged to have been caused, directly or indirectly, by the negligent act, willful misconduct, or error or omission by CONTRACTOR in connection with CONTRACTOR’s performance, of this Client Agreement.

COUNTY shall defend, indemnify, and hold harmless CONTRACTOR, its affiliates, officers, directors, employees, counsel, agents, and assigns from and against any and all Damages caused or alleged to have been caused, directly or indirectly, by the negligent act, willful misconduct, or error or omission by COUNTY in connection with its performance, of this Client Agreement or the provision of medical or health care services by COUNTY or the assigned facility.”

7. Section 13, Assignment and Subcontracting is deleted and replaced with the following:

“Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Parties and may not be transferred, subcontracted, or assigned without the prior written consent of both parties. Neither party shall substitute nor replace any personnel for those specifically named herein or in its proposal without the prior written consent of the other party. Unless otherwise agreed in writing by the County’s Risk Manager, Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at §§6, 7, 8, 9 and 10, in the same amounts and subject to the same terms as are required of Contractor under this Contract, unless otherwise provided by County’s Risk Manager. Said insurance shall include all upstream parties (including the Contractor and the County) as additional insureds using a Blanket Additional Insured Endorsement (ISO form number CG 20 38 04 13) or coverage at least as broad. Contractor shall verify that all subcontractors provide a policy endorsement in compliance with this Paragraph and shall provide a copy of the same to County at least ten (10) working days prior to commencement of any work by subcontractor. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee, or to timely provide County with a copy of the required policy endorsement, shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.”

8. Section 18, Nondiscriminatory Employment, 1st paragraph is deleted and replaced with the following:

“18. Nondiscriminatory Employment:

In providing Services hereunder, Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including the provisions of the Americans with Disabilities Act of 1990, and Fair Employment and Housing Act, and shall not unlawfully discriminate against any employee, or applicant for employment or client because of race, sex, sexual orientation, color, ancestry, religion or religious creed, national origin or ethnic group identification, political affiliation, mental disability, physical disability, medical condition (including cancer, HIV and AIDS), age (over 40), marital status, or use of Family and Medical Care Leave and/or Pregnancy Disability Leave in regard to any position for which the employee or applicant is qualified.

9. Section 24, Termination, subparagraph b. and c. shall be replaced with the following and paragraph f. shall be added:

“b. If Contractor fails to timely provide in any manner the services, materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates

any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving thirty (30) days written notice to Contractor.

c. County, upon giving thirty (30) calendar days written notice to Contractor, shall have the right to terminate its obligations under this Contract if the County, the Federal Government or the State of California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

f. If Contractor defaults in Contractor's performance, County shall promptly notify Contractor in writing. If Contractor fails to cure a default within 30 days after notification, or if the default requires more than 30 days to cure and Contractor fails to commence to cure the default within 30 days after notification, then Contractor's failure shall constitute cause for termination of this Contract. Notwithstanding the language contained in this section, the County maintains the ability to remove a patient from the facility upon request."

10. Section 25, Suspension is deleted and replaced with the following:

"County, upon giving thirty (30) calendar days written notice to Contractor, shall have the right to suspend this Contract, in whole or in part, for any time period as County deems necessary due to delays in federal, state or County appropriation of funds, lack of demand for services to be provided under this contract, or other good cause. Upon receipt of a notice of suspension from County, Contractor shall immediately suspend or stop work as directed by County and shall not resume work until and unless County gives Contractor a written notice to resume work. In the event of a suspension not the fault of the Contractor, Contractor shall be paid for services performed to the date of the notice of suspension in accordance with the terms of this Contract."

11. Section 26, Financial Statistical and Contract-Related Records, subparagraph b. is deleted and replaced with the following:

"b. **INSPECTION:** Upon reasonable advance written notice and during normal business hours or at such other times as may be agreed upon, Contractor shall make all of its books and records available for inspection, examination or copying, to County, or to the State Department of Health Care Services, the Federal Department of Health and Human Services, the Controller General of the United States and to all other authorized federal and state agencies, or their duly authorized representatives.

c. **AUDIT:** Contractor shall permit the aforesaid agencies or their duly authorized representatives to audit all books, accounts or records relating to this Contract, and all books, accounts or records of any business entities controlled by Contractor who participated in this Contract in any way. All such records shall be available for inspection by auditors designated by County or State, at reasonable times during normal business hours. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within fifteen (15) days upon delivery of written notice from County. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charge of five percent (5%) or more of the Maximum Contract Price"

12. Section 27, Non-Profit Provisions, subparagraph a. is deleted and replaced with the following:

"a. **Reporting Requirements:**

Upon demand by County, Contractor shall submit a report to County no later than thirty (30) days after the aforesaid Contract Termination Date, which report shall identify the status of each service which was provided as described in **Exhibit "A"** (Schedule of Services), and detail all amounts expended as set forth in **Exhibit "B"** (Schedule of Charges and Payments), or otherwise. This report is subject to audit by the Nevada County Auditor/Controller."

13. Section 27, Non-Profit Provisions, subparagraph b., section (i) is deleted and replaced with the following:

"b. Supplemental Audit Provisions:

(i) Upon request by the County, Contractor shall provide the most recent copy of the Contractor's reviewed or audited financial statements. Said financial statements shall be verified by an independent Certified Public Accountant. These financial statements together with the Certified Public Accountant's verification are due to the County within thirty (30) days of request by County. If Contractor, however, has another County Contract currently in effect and has previously provided this information to the County within the last year, it is not necessary for Contractor to re-submit these statements and verification under this Agreement."

14. Section 28, Intellectual Property, is deleted and replaced with the following:

"28. Intellectual Property:

To the extent applicable, all original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Contractor by County, shall be the property of County, and upon fifteen (15) days demand therefore, shall be promptly delivered to County without exception. Provided however, for personal purposes only and not for commercial, economic or any other purpose, Contractor may retain a copy of Contractor's work product hereunder."

Sections 35 through 36 are hereby added to read as follows:

35. Laws, Statutes, and Regulations:

A. Contractor agrees to comply with the Bronzan-McCorquodale Act (Welfare and Institutions Code, Division 5, 6, and 9, Section 5600 et seq. and Section 4132.44), Title 9 and Title 22 of the California Code of Regulations, Title XIX of the Social Security Act, State Department of Health Care Services Policy Letters, and Title 42 of the Code of Federal Regulations, Sections 434.6 and 438.608 which relate to, concern or affect the Services to be provided under this Contract.

B. Clean Air Act and Federal Water Pollution Control:
Contractor shall comply with the provisions of the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended, which provides that contracts and subcontracts of amounts in excess of \$100,000 shall contain a provision that the Contractor and Subcontractor shall comply with all applicable standards, orders or regulations issues pursuant to the Clear Air Act and the Federal Water Pollution Control Act. Violations shall be reported to the Centers for Medicare and Medicaid Services.

C. For the provision of services as provided herein, Contractor shall not employ or contract with providers or other individuals and entities excluded from participation in Federal Health Care Programs under either Section 1128 or 1128A of the Social Security Act and shall screen all individuals and entities employed or retained to provide services for eligibility to participate in Federal Health Care programs (see <http://oig.hhs.gov/exclusions/index.asp> and <http://files.medical.ca.gov/pubsdoco/SandILanding.asp>). The Contractor shall check monthly and immediately report to the department if there is a change of status.

D. Ownership: Contractor shall provide written verification of compliance with CFR, Title 42, sections 455.101 and 455.104. This verification will be provided to Nevada County Behavioral Health (NCBH) by December 31 of each year and when prescribed below.

- (a) Who must provide disclosures. The Medi-Cal agency must obtain disclosures from disclosing entities, fiscal agents, and managed care entities.
- (b) What disclosures must be provided. The Medi-Cal agency must require that disclosing entities, fiscal agents, and managed care entities provide the following disclosures:

- 1. i) The name and address of any person (individual or corporation) with an ownership or

control interest in the disclosing entity, fiscal agent, or managed care entity. The address for corporate entities must include as applicable primary business address, every business location, and P.O. Box address.

ii) Date of birth and Social Security Number (in the case of an individual).

iii) Other tax identification number (in the case of a corporation) with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) or in any subcontractor in which the disclosing entity (or fiscal agent or managed care entity) has a five (5) percent or more interest.

2. Whether the person (individual or corporation) with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the disclosing entity (or fiscal agent or managed care entity) has a five (5) percent or more interest is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling.
3. The name of any other disclosing entity (or fiscal agent or managed care entity) in which an owner of the disclosing entity (or fiscal agent or managed care entity) has an ownership or control interest.
4. The name, address, date of birth, and Social Security Number of any managing employee of the disclosing entity (or fiscal agent or managed care entity).

(c) When the disclosures must be provided.

I. Disclosures from providers or disclosing entities. Disclosure from any provider or disclosing entity is due at any of the following times:

- i) Upon the provider or disclosing entity submitting the provider application.
- ii) Upon the provider or disclosing entity executing the provider agreement.
- iii) Upon request of the Medi-Cal agency during the re-validation of enrollment process under § 455.414.
- iv) Within 35 days after any change in ownership of the disclosing entity.

II. Disclosures from fiscal agents. Disclosures from fiscal agents are due at any of the following times:

- i) Upon the fiscal agent submitting the proposal in accordance with the State's procurement process.
- ii) Upon the fiscal agent executing the contract with the State.
- iii) Upon renewal or extension of the contract.
- iv) Within 35 days after any change in ownership of the fiscal agent.

III. Disclosures from managed care entities. Disclosures from managed care entities (MCOs, PIHPs, PAHPs, and HIOs), except PCCMs are due at any of the following times:

- i) Upon the managed care entity submitting the proposal in accordance with the State's procurement process.
- ii) Upon the managed care entity executing the contract with the State.
- iii) Upon renewal or extension of the contract.
- iv) Within 35 days after any change in ownership of the managed care entity.

IV. Disclosures from PCCMs. PCCMs will comply with disclosure requirements under paragraph (c)(1) of this section.

- (d) To whom must the disclosures be provided. All disclosures must be provided to the Medi-Cal agency.
- (e) Consequences for failure to provide required disclosures. Federal financial participation (FFP) is not available in payments made to a disclosing entity that fails to disclose ownership or control information as required by this section.

E. Contractor shall have a method to verify whether services billed to Medi-Cal were actually furnished to Medi-Cal beneficiaries. The Contractor's verification method shall be based on random samples and will specify the percentage of total services provided that shall be verified. The Contractor's verification process shall be submitted to and approved by the NCBH Quality Assurance Manager. Contractor will report the outcome of service verification activities to the NCBH Quality Assurance Manager quarterly.

36. Client/Patient Records:

Where this contract is for services relating to the mental health or the medical needs or condition of clients or patients:

A. HEALTH RECORDS: Contractor shall maintain adequate mental and/or medical health records of each individual client/patient which shall include a record of services provided by the various professional personnel in sufficient detail to make possible an evaluation of services, and which shall contain all necessary data as required by the Department of Behavioral Health and state or federal regulations, including but not limited to records of client/patient interviews and progress notes.

B. TREATMENT PLAN: Contractor shall also maintain a record of services provided, including the goals and objectives of any treatment plan and the progress toward achieving those goals and objectives. County shall be allowed to review all client/patient record(s) during site visits, or at any reasonable time. Specialized mental health services provided by Contractor shall be in accordance and as defined by the California Code of Regulation Title 9, Chapter 11, and in compliance with Nevada County's Mental Health Plan (MHP).

C. LOCATION / OWNERSHIP OF RECORDS: If Contractor works primarily in a County facility, records shall be kept in the County's facility and owned by County. If Contractor works in another facility or a school setting, the records shall be owned and kept by Contractor and upon demand by County, a copy of all original records shall be delivered to County within a reasonable time from the conclusion of this Contract.

D. CONFIDENTIALITY: Such records and information shall be maintained in a manner and pursuant to procedures designed to protect the confidentiality of the client/patient records. Contractor agrees to maintain confidentiality of information and records as required by applicable federal, state and local laws, regulations and rules, and recognized standards of professional practice and further agrees to hold County harmless from any breach of confidentiality.

E. RETENTION OF RECORDS: Contractor shall maintain and preserve all clinical records related to this Contract for seven (7) years from the date of discharge for adult clients, and records of clients under the age of eighteen (18) at the time of treatment must be retained until either one (1) year beyond the clients eighteenth (18th) birthday or for a period of seven (7) years from the date of discharge, whichever is later. Psychologists' records involving minors must be kept until the minor's 25th birthday. 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 seven 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 seven year period shall arise only if the County notifies Contractor of the commencement of an audit prior to the expiration of the seven year period.

F. REPORTS: Contractor shall provide reports to County from time to time as necessary, and as reasonably requested by County. Contractor agrees to provide County with reports that may be required by County, State or Federal agencies for compliance with this Agreement.

G. COPIES OF RECORDS: Upon termination of this Contract, Contractor agrees to cooperate with client/patients, County and subsequent providers with respect to the orderly and prompt transfer of client or patient records. This Contract does not preclude Contractor from assessing reasonable charges for the expense of transferring such records if appropriate. Said charges shall be twenty-five Cents (\$0.25) per page, plus the cost of labor, not to exceed Sixteen Dollars (\$16.00) per hour or pro rata fraction thereof, for actual time required to photocopy said records.

H. CULTURAL COMPETENCE: Contractor shall provide services pursuant to this Agreement in accordance with current State statutory, regulatory and policy provisions related to cultural and linguistic competence as defined in the Department of Health Care Services (DHCS) most recent Information Notice(s) regarding Cultural Competence Plan Requirements (CCPR), that establish standards and criteria for the entire County Mental Health System, including Medi-Cal services, Mental Health Services Act (MHSA), and Realignment as part of working toward achieving cultural and linguistic competence. The CCPR standards and criteria as cited in California Code of Regulations, Title, 9, Section 1810.410, are applicable to organizations/agencies that provide mental health services via Medi-Cal, Mental Health Services Act (MHSA), and/or Realignment.

I. PATIENTS' RIGHTS: Patients' Rights shall be in compliance with Welfare and Institutions Code Division 5, Section 5325 et seq.; and California Code of Code of Regulations, Title 9, Section 862 et seq and Tile 42, Code of Federal Regulations (CFR), Section 438.100.

J. HOURS OF OPERATION: Pursuant to Title 42 CRF, Section 438.206 (c)(1)(ii) if Contractor also serves individuals who are not Medi-Cal beneficiaries, the Contractor shall require that the hours of operation during which the Contractor offers services to Medi-Cal beneficiaries are no less than and comparable to the hours of operation during which the Contractor offers services to non-Medi-Cal beneficiaries.

COUNTY OF NEVADA
Approved as to Form



County Counsel

EXHIBIT "D"

**SCHEDULE OF HIPAA AND HITECH PROVISIONS
FOR COMPLIANCE-COVERED ENTITY TO COVERED ENTITY**

COUNTY and CONTRACTOR each consider and represent themselves as covered entities as defined by the U.S. Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH) and agree to use and disclose protected health information as required by law. COUNTY and CONTRACTOR acknowledge that the exchange of protected health information between them is only for treatment, payment, and health care operations.

COUNTY OF NEVADA
Approved as to Form



County Counsel