

C O N T R A C T

The COUNTY OF SAN BENITO ("COUNTY") and ENCOMPASS COMMUNITY SERVICES ("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, 2018 and end on June 30, 2019, 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 thirty (3) days.

7. Specific Terms and Conditions (check one)

- ☐ [] There are no additional provisions to this contract.
- ☒ [X] 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.
- ☒ [X] 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:

Contract Administrator for CONTRACTOR:

Name: Alan Yamamoto

Name: Monica Martinez

Title: Behavioral Health Director

Title: Chief Executive Director

Address: 1131 San Felipe Road
Hollister, CA 95023

Address: Encompass Community Services
195 Harvey West Blvd.
Santa Cruz, CA 95060

Telephone No.: (831) 636-4020

Telephone No.: (831) 469-1700

Fax No: (831) 636-4025

Fax No: (831) 425-1905

SIGNATURES

APPROVED BY COUNTY:

APPROVED BY CONTRACTOR:

Name: _____

Name: 

Chair, San Benito County Board of Supervisors

Title: CEO

Date: _____

Date: 6/25/18

APPROVED AS TO LEGAL FORM:

San Benito County Counsel

By: 

Date: 7-19-18

ATTACHMENT A

REPORTING REQUIREMENTS OF CONTRACTOR

1. CONTRACTOR shall provide to clients referred by COUNTY residential substance abuse treatment/recovery services pursuant to the laws and regulations of the State of California governing such programs. These services shall be provided at CONTRACTOR'S licensed/certified facility, and shall be staffed 24 hours per day. CONTRACTOR shall provide all legally required care and services for such clients, which shall include, but not necessarily limited to:
 - a. An alcohol and drug-free structured treatment/recovery program;
 - b. Room and board;
 - c. No less than twenty-four (24) hours per calendar week of structured alcohol and drug process group and education sessions facilitated by CONTRACTOR'S paid program staff;
 - d. No less than one fifty-minute counseling session per calendar week facilitated by CONTRACTOR'S paid program staff;
 - e. Case management services design to teach and assist clients in the use of community-based resources including but not limited to 12-Step or other self help support groups; and;
 - f. Other such program elements are required by the State Department of Alcohol and Drug PROGRAMS ("ADP").
2. CONTRACTOR shall provide to COUNTY, within fourteen (14) days following admission to CONTRACTOR'S program, a written individualized treatment/recovery plan containing long and short term goals and intervention for each client.
3. CONTRACTOR shall consult with COUNTY's substance abuse staff on a regular basis, and as otherwise may be appropriate, regarding each client's progress and, at least five (5) days prior to discharge from the program, shall submit to COUNTY, via fax, a written discharge summary for each client addressing ongoing treatment goals and making recommendations for continuing services, and making arrangements for connecting client with COUNTY'S out-patient services immediately upon discharge. If any client leaves or is discharged from CONTRACTOR'S program prior to the planned date of discharge, CONTRACTOR shall immediately, or at the latest on the next business day, notify COUNTY of such event by telephone call, followed by a faxed written notification; such notice shall include the reason for and detailed circumstances of such event.
4. CONTRACTOR agrees to provide COUNTY with any reports which may be required by State or Federal agencies for compliance with this Agreement, and shall submit CalOMS and DATAR reports to ADP, in a timely manner. The CONTRACTOR shall use a "Special Services Code" in item #15 on the CalOMS form. The Special Services Code for Hermanas is #350313, #350314 for Si Se Puede and #350320 for Santa Cruz Recovery.
5. CONTRACTOR shall submit to COUNTY, by the tenth (10th) day of each month, a written status report consisting of the following data for the previous calendar month (a progress report form shall be provided by County).
 - a. Number and names of COUNTY'S clients in treatment at the beginning of the month;
 - b. Names, dates and times of admission of COUNTY clients during the month;
 - c. Name, reason (s) for early discharge, and date and time of discharge for each COUNTY client terminated from CONTRACTOR'S program during the reported month, where the discharge was made prior to successful completion of the treatment program;

- d. Name, date and time of discharge for each COUNTY client discharged during the reported month after successful completion of the treatment program;
 - e. Name and length of stay to date, as of the end of the reported month, for each COUNTY client admitted for treatment;
 - f. If applicable, the name and pregnancy or postpartum status of each COUNTY'S client in treatment during the reported month, and if care of an infant was necessary during the reported month and, if so, the number of days such care was provided;
 - g. If applicable, the names of COUNTY'S clients in treatment under the Substance Abuse and Crime Prevention Act of 2000 ("SACPA", or Proposition 36), and the number of days such care was provided during the month, as well as the fees charged for those services, for each such COUNTY SACPA client; and,
 - h. If applicable, the name of each COUNTY client receiving or eligible for CalWORKS benefits.
6. CONTRACTOR shall post clients' rights information and regulations, including rights of confidentiality, in a conspicuous location.
7. CONTRACTOR shall give COUNTY'S clients the same level of care as other clients with similar needs, and shall not discriminate among patients in admission practices, assignment of accommodations, provision for meals, or any other substantive element of the treatment program.

By signing this contract, Contractor certifies under the laws of the State of California that Contractor and its subcontractors shall not unlawfully discriminate in the provision of services because of race, color, creed, national origin, sex, age, or physical or mental disability as provided by state and federal law and in accordance with Title VI of the Civil Rights Act of 1964 [42 USC 2000(d)]' Age Discrimination Act of 1975 (29 USC 6101); Rehabilitation Act of 1973 (29 USC 794) Education Amendments of 1972 (20 USC 1681); Americans with Disabilities Act of 1990 (42 USC 12101); Title 45, CFR, Part 84; provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.); and regulations promulgated hereunder (Title 2, California Code of Regulations (CCR), Section 7285.0 et seq.); Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135; and Title 9, Division 4, Chapter 6 of the CCR, commencing with Section 10800.

8. Certification (Reference: 45 Code of Federal Regulations (CFR), Appendix B to Part 76)
The CONTRACTOR certifies, to the best of his or her knowledge and belief, the following:
Neither Contractor nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

If the contractor is unable to certify the above, it shall attach a written explanation to the contract. The inability of a contractor to certify that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded may result in denial of the contract.

CONTRACTOR agrees that it will include the above debarment clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

9. CONTRACTOR agrees that no part of any federal funds provided under this contract shall be used by Contractor or any subcontractor to support lobbying activities to influence proposed or pending federal or state legislation or appropriations. This prohibition is related to the use of Federal Grant funds and is not intended to offset Contractor's right, or that of any other organization, to petition Congress, or any other level of government, through the use of other resources. (Reference: 31 USC 1352)
10. CONTRACTOR agrees that no part of any federal funds provided under this contract shall be used by it or any subcontractor to pay the salary of an individual in excess of \$171,600 per year.

11. CONTRACTOR shall comply, and require that subcontractors comply, with Public Law 103-227, also known as the Pro-Children Act of 1994, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted.
12. Performance under this contract is subject to all applicable federal and state laws, regulations, and standards. In accepting the State drug and alcohol combined program allocation pursuant to HSC, Sections 11757 (a) and (b), CONTRACTOR shall (i) establish, and shall require subcontractors to establish, written accounting procedures consistent with the following requirements, and (ii) be held accountable for audit exceptions taken by State against Contractor and its subcontractors for any failure to comply with these requirements:
 - a. HSC, Division 10.5;
 - b. Title 9, California Code of Regulations, Division 4;
 - c. Government Code Section 16367.8
 - d. Government Code, Article 7, Federally Mandated Audits of Block Grant Funds Allocated to Local Agencies, Chapter 1, Part 1, Division 2, Title 5, commencing at Section 53130;
 - e. Title 42, United States Code (USC), Section 300x-5;
 - f. Title 42 USC, Chapter 6A, Subchapter XVII – Part B, Subpart II, commencing at Section 300x-21);
 - g. Single Audit Act of 1984 (31 USC section 7501 et seq.) and the Single Audit Act Amendments of 1996 (31 USC sections 7501-7507) and the corresponding most recently revised OMB Circular A-133;
 - h. Title 45 CFR, Part 96, Subparts C and L, Substance Abuse Prevention and Treatment Block Grant;
 - i. Title 21, CFR, Part 291 (Food and Drug Administration Requirements for Narcotic Treatment Programs);
 - j. Title 21, CFR, Part 1300, et. seq. (Drug Enforcement Administration Requirements for Food and Drugs); and
 - k. State Administrative Manual, Chapter 7200 (General Outline of Procedures).
 - l. Contractor shall comply with Section 106(g) of the Trafficking Victims Protection Act of 2000 as amended (22 U.S.C. 7104).
 - m. Title 42, CFR Part 54, ADP Bulletin 04-5, Charitable Choice Requirements.

CONTRACTOR shall be familiar with the above laws and regulations and shall assure that its subcontractors are also familiar with such laws.

13. Contractor agrees not to charge clients or County for drug testing of clients.
14. Contractor agrees not to bill Drug Medi-Cal for services provided under this contract.
15. CONTRACTOR must comply with Nondiscrimination and Institutional Safeguards for religious Providers
16. CONTRACTOR shall establish such processes and procedures as necessary to comply with the provisions of Title 42, USC, Section 300x-65 and Title 42, CFR, Part 5.
17. CONTRACTOR shall retain client records for a minimum of three (3) years from the date of the last face-to-face contact, including each service rendered, to and the date of service, W&I Section 14214.1 and 42 CFR 433.32; and 22 CCR section 51341.1."

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 Fifty Thousand and no cents (\$50,000.00) 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)

Rate: Adults \$ 161.00 Per day

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.

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

The following paragraphs apply only as indicated above.

- D-1. CONTRACTOR shall comply with all statutes and regulations governing the confidentiality of records.
- D-2. CONTRACTOR shall maintain all governing records in compliance with all appropriate federal, state and local requirements.
- D-4. CONTRACTOR shall insure that all pertinent admissions and length of stay requests comply with utilization review regulations.
- D-6. CONTRACTOR shall comply with Title 9 Substance Abuse and Crime Prevention Act of 2000:

Section 9530 (f)

With the exception of specific requirements included in (g), (h), and (i) of Section 9530, determination of allowable and allocable costs under the Act shall be made utilizing the guidelines contained in the Act and in cost principles published by the Federal Office of Management and Budget (OMB). The county shall follow OMB Circular A-87, "Cost Principles of State, Local and Indian Tribal Governments". Public and Private contractors shall follow OMB Circular A-122, "Cost Principles for Non-Profit Organizations".

Section 9530 (k) (2)

The COUNTY and CONTRACTOR shall monitor and document activities to ensure that funds are not used to supplant funds from any existing fund source or mechanism currently used to provide drug treatment services in the county.

Section 9532 (b) (1)

Drug treatment programs in which clients are placed shall assess fees toward the cost of treatment based on their determination of a client's ability to pay in accordance with Section 11991.5 of the Health and Safety Code. Such fees shall be deducted from the drug treatment program's cost of providing services in accordance with Health and Safety Code Section 11987.9.

Section 9535 (e)

The COUNTY and CONTRACTOR shall retain all records documenting use of funds for a period of five years from the end of the fiscal year or until completion of the Department's annual audit and resolution of any resulting audit issues if the audit is not resolved within 5 years.

Section 9545 (a)

COUNTY shall annually audit any public or private contractors with whom they have agreements and who expend \$300,000 or more in funds to ensure compliance with the provisions of the Act, the requirements of this Chapter, and the county terms and conditions under which the funds were awarded. Counties may, at their discretion, conduct such audits, contract for the performance of such audits, or require the public or private contractors to obtain such audits.

Section 9545 (b)

The audit shall be conducted in accordance with generally accepted government auditing standards as described in "Government Auditing Standards (1994 Revision)", published for the United States General Accounting Office by the Comptroller General of the United States.

Section 9545 (d)

The written audit report shall establish whether the contractor expended funds in accordance with the provisions of the Act, including terms of SATTA Drug Testing, the requirements of this Chapter, and the county terms and conditions under which the funds were awarded.

Section 9545 (e)

When a county audit finds that a public or private contractor has misspent funds (Section 9530), the county shall demand repayment from the contractor in the amount of such audit findings and shall be reported to the Department on the Annual Financial Status Report Substance Abuse and Crime Prevention Act of 2000" (Form 10096, New 10/01), and the specific amount recovered shall be identified in the "Comments/Remarks" line on the same report. The County shall maintain an audit trail to identify the specific audit periods for which recoveries are reported.

Section 9545 (g)

Notwithstanding subsection (a) of Section 9545, any public or private contractor who is required to obtain a single audit pursuant to OMB Circular A-133 and who receives funding under the Act, shall ensure that the single audit addresses compliance with the requirements of the Act. The County may rely on the single audit as fulfilling its responsibilities in Section 9545 (a).

Section 9545 (h)

Audit work papers supporting the report shall be retained for a period of five years from the issuance of the audit report and the County shall make such work papers available to the Department upon request.

END ATTACHMENT D

ATTACHMENT E

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

BUSINESS ASSOCIATE

- (a) Contractor shall comply with, and assist the County in complying with, the privacy requirements of the Health Insurance Portability and Accountability Act (including but not limited to 42 U.S.C. 1320d et seq.; "HIPAA") and its implementing regulations (including but not limited to 45 CFR Parts 142, 160, 162 and 164), hereinafter collectively referred to as the "Privacy Rule." Terms used but not otherwise defined in this Addendum shall have the same meaning as those terms are used in the Privacy Rule.
- (b) Except as otherwise limited in this Addendum, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for or on behalf of the County as specified in this Addendum, provided that such use or disclosure would not violate the Privacy Rule with which the County complies.
- (c) Contractor shall not use or further disclose Protected Health Information other than as permitted or required by this Addendum, or as required by law.
- (d) Contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Addendum.
- (e) Contractor shall report to the County any use or disclosure of the Protected Health Information not provided for by this Addendum.
- (f) Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor as a result of a use or disclosure of Protected Health Information by Contractor, which is in violation of the requirements of this Agreement.
- (g) Contractor shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, created, or received by Contractor on behalf of the County, agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- (h) Contractor shall provide access, at the request of the County, and in the time and manner designated by the County, to Protected Health Information in a Designated Record Set; this Protected Health Information will be released to the County or, as directed by the County, to an Individual, in order to meet the requirements under 45 CFR Section 164.524.
- (i) Contractor shall make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs, pursuant to 45 CFR Section 164.526, at the request of the County or an Individual, and in the time and manner designated by the County.
- (j) Contractor shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for the County, to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR Section 164.528.
- (k) Contractor shall provide to the County or an Individual, in the time and manner designated by the County, information collected in accordance with subsection (j), to permit the County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR Section 164.528.
- (l) Contractor shall make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of the County, available to the County; or at the request of the County, to the Secretary of the United States Department of Health and Human Services ("Secretary"), in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining the County's compliance with the Privacy Rule.
- (m) A breach by Contractor of any provision of this Addendum, as determined by County, shall

institute a material breach of the contract and shall provide grounds for immediate termination of the Contract by the County.

- (1) Except as provided in subparagraph (2) of this section, upon termination of this Addendum for any reason, Contractor shall return or destroy all Protected Health Information received from the County, or created or received by Contractor on behalf of the County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Contractor. Contractor, its agents and subcontractors shall retain no copies of the Protected Health Information.
 - (2) In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to the County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of this Addendum to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor, or any of its agents or subcontractors, maintains such Protected Health Information.
- (n) Contractor is responsible for providing the required notification only if a breach involved of "unsecured PHI". Unsecured PHI is PHI that has not been rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified in guidance by the Secretary of DHHS. The most current guidance can be found on the DHHS website (<http://www.hhs.gov>).
- (o) The Parties agree to take action to amend this Agreement from time to time as is necessary for the County to comply with the requirements for the Privacy Rule or any other requirements of HIPAA and its implementing regulations.

END OF ATTACHMENT E