

SIXTH AMENDMENT 2007-2008

TO AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

This is a Sixth amendment (hereafter referred to as the "Sixth Amended Contract") to the Agreement for Services of Independent CONTRACTOR, number **BC 05-017**, by and between the **COUNTY of Santa Barbara** (COUNTY) and **Kindred Pharmacy Services** (CONTRACTOR), for the continued provision of **Pharmacy Services**.

Whereas, this Sixth Amended Contract incorporates the terms and conditions set forth in the original contract, approved by the COUNTY Board of Supervisors in August 2004, and the terms and conditions of the first amendment approved by the COUNTY Board of Supervisors in November 2005, and the second amendment approved by the ADMHS Director in July 2006, and the third amendment approved by the COUNTY Board of Supervisors in July 2006, the fourth amendment approved by the COUNTY Board of Supervisors in April 2007, the fifth amendment approved by the COUNTY Board of Supervisors in July 2007, except as modified by this Sixth Amended Contract.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, COUNTY and CONTRACTOR agree as follows:

I. Delete Exhibit A, Statement of Work, and replace with the following:

EXHIBIT A STATEMENT OF WORK

1. CONTRACTOR shall provide regular and emergency pharmacy services to the Santa Barbara COUNTY Alcohol, Drug, and Mental Health Psychiatric Health Facility (PHF) located on the First Floor, 315 Camino Del Remedio, Santa Barbara, CA 93110-1332.
2. Services to be provided by CONTRACTOR.
 - A. Check and replenish "stock" medications and emergency box.
 - B. Dispense prescriptions for individual clients as ordered.
 - C. CONTRACTOR Pharmacist (hereafter Pharmacist) shall attend committee meetings as necessary, including but not limited to Quality Assurance meetings. Additionally, Pharmacist shall inform physicians via memo of formulary changes and requirements for Treatment Authorization Requests (TAR).
 - D. Pharmacist shall perform client chart reviews on a monthly basis and give quarterly written summary report on these findings.
 - E. Pharmacy shall provide at least two (2) deliveries per day, five (5) days a week with one (1) delivery on Saturday. More deliveries shall be made if needed by the PHF.
 - F. A Pharmacist shall be on call for "Emergency" services twenty-four (24) hours a day, seven (7) days a week.
 - G. Pharmacy/Pharmacist shall provide other services as required and requested by the PHF and staff.

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- H. In-house client medications and supplies shall be delivered in accordance with applicable provisions in the California Administrative Code.
 - I. CONTRACTOR shall generate, maintain, and distribute to COUNTY a Policy and Procedures Manual which defines methods and practices by which CONTRACTOR shall comply with the terms of this agreement and compliance with regulatory requirements. The PHF shall have review authority for the Manual and all revisions.
 - i) CONTRACTOR shall ensure that the Policy and Procedures Manual is maintained in a current, complete, and timely manner reflecting actual practices. The Manual shall include document control through revision control, distribution lists, and periodic audits.
 - ii) Said policy and procedures manual shall include instructions, procedures and references to ensure current and complete compliance with Medi-Care and Medi-Cal requirements.
 - iii) Both parties' appropriate personnel shall be trained on the contents and use of the Manual. Revisions shall be reviewed with both parties appropriate personnel to ensure currency of training.
 - J. Disposal of all medications not used by the PHF as specified in Section 2.F of this Exhibit.
3. Responsibilities of PHF.
- A. Provide adequate information on each client admitted to facility.
 - B. Order medications in a timely manner.
 - C. Make all records and information necessary to provide required services accessible to Pharmacists.
 - D. Guarantee payment for medications provided to clients of the PHF. COUNTY shall provide reimbursement for discharge medications only when reimbursement is not available from other sources, as described in Exhibit B.
 - E. Provide CONTRACTOR with sufficient information to properly bill Medi-Cal, or as necessary to re-bill Medi-Cal, or other third party payors for clients receiving discharge medications.
 - F. Dispose of medication not used by PHF in the following manner:
 - i) All narcotics shall be disposed of within the PHF by a PHF Registered Nurse and a Pharmacist.
 - ii) To provide proper disposition of unused medications, COUNTY PHF staff shall provide signed inventory of all "bubble packed" medication. This medication is to be picked up by CONTRACTOR from PHF and returned to CONTRACTOR for credit.

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- iii) All other medication necessitating disposal shall be processed via a separate vendor.
4. **CONFIDENTIALITY.** CONTRACTOR agrees to maintain the confidentiality of patient records pursuant to Welfare and Institutions Code (WIC), Section 5328 and the 42 U.S.C. §290dd-2 (requires client, or patient representative, authorization specific to psychiatric treatment prior to release of information or a judge signed court order if client authorization unavailable) and 45 CFR Parts 160 – 164 (privacy and security rules related to HIPAA). CONTRACTOR shall inform all its officers, employees, and agents of the confidentiality provisions of said statutes. Patient records must comply with all appropriate State and Federal requirements.
5. **NOTIFICATION REQUIREMENTS.** CONTRACTOR shall notify COUNTY ADMHS Director or his designee immediately in the event of: suspected or actual misappropriation of any funds under CONTRACTOR'S control; any known serious complaints against licensed staff; any restrictions in practice or license as stipulated by the State Bureau of Medical Quality Assurance, Community Care Licensing Division of the Department of Social Services of the State, or other State agency; any staff privileges being restricted at a hospital; any legal suits being initiated specific to the CONTRACTOR'S practice; any criminal investigation of the CONTRACTOR being initiated; or any other action being instituted which affects CONTRACTOR'S license or practice.

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II. Delete Exhibit B, Payment Arrangements, and replace with the following:

Exhibit B Payment Arrangements

1. **CONTRACTOR SERVICES.** For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid at the rate specified in this Exhibit B, with a maximum value not to exceed **\$250000.**
2. Payment for services and/or reimbursement of costs shall be made upon CONTRACTOR'S satisfactory performance, based upon the scope and methodology contained in Exhibit A, as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs defined in this EXHIBIT B. Invoices submitted for payment that are based upon EXHIBIT B must contain sufficient detail and provide supporting documentation to enable an audit of the charges.
3. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the COUNTY Treasury for the services performed over the period specified. COUNTY representative shall evaluate the quality of the service performed and, if found to be satisfactory, shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within thirty (30) days of presentation.
4. COUNTY'S failure to discover or object to any unsatisfactory work or billings prior to payment shall not constitute a waiver of COUNTY'S right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.
5. COUNTY Designated Representative:

Alcohol, Drug and Mental Health Services
Attn: Accounts Payable
300 North San Antonio Road Bldg. 3
Santa Barbara, CA 93110
6. Proper Invoice:
 - A. The invoice must show the BC number, client's identification number, the number of days of service, the rate, and the total cost broken down by client, by service, and by service increment.
 - B. CONTRACTOR must certify that CONTRACTOR has documentation supporting medical necessity.
7. Charges for Services: Billing to COUNTY shall be divided into three (3) categories:
 - A. Stock medication retained in the Psychiatric Health Facility (PHF). Stock medications shall be pre-paid, delivered to and held by PHF.

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B. Medication for PHF Clients (Inpatient).

- i. Medi-Cal eligible client shall be provided Medi-Cal formulary medications, primarily issued from stock medications held by and pre-paid by PHF (COUNTY). Any other medications provided by CONTRACTOR for clients during their PHF admission period shall be reimbursed by COUNTY upon receipt of a proper invoice. The admission period shall begin the day of admission and end the day prior to the discharge date.
- ii. For clients with private insurance, CONTRACTOR shall bill insurance, as appropriate upon notification by COUNTY that the client is insured. In the event COUNTY has reimbursed CONTRACTOR for medications also reimbursed by insurance, CONTRACTOR shall credit COUNTY's account.
- iii. In the event COUNTY has reimbursed CONTRACTOR for medications also reimbursed by client, CONTRACTOR shall credit COUNTY's account for amounts collected.

C. Billing for Discharge (Outpatient) Medications.

- i. Discharge Medications shall be defined as those medications dispensed to clients starting the day of discharge. CONTRACTOR shall attempt to bill any third party, including Medi-Cal, and/or client for Discharge Medications and credit COUNTY's account for amounts collected.
 - ii. COUNTY shall continuously check for client's retroactive Medi-Cal eligibility for up to six months prior, and shall provide any information received by COUNTY to CONTRACTOR for billing. Upon receipt of information, CONTRACTOR shall bill Medi-Cal, third party payors or client, as applicable, for Discharge Medications only. In the event COUNTY has reimbursed CONTRACTOR for medications also reimbursed by third parties, CONTRACTOR shall credit COUNTY's account for amounts collected.
8. All medications and supplies shall be billed at: current Medicaid rates when applicable and Average Wholesale Prices when Medicaid rates are not applicable.
9. Consulting services:
- A. Consultations will be billed at \$50.00 per hour for in-house services; the contract maximum is based upon 24 hours of consultation. This includes after-hour call-out services.
 - B. No charges will be made for information calls made by staff after normal hours of operation.
10. Retroactive Medi-Cal eligibility billing credits will be issued monthly, and a reconciliation will be performed quarterly by COUNTY for concurrence with CONTRACTOR.
11. Upon request by COUNTY, CONTRACTOR shall provide a financial report to COUNTY. The financial report shall indicate the actual cost of service, however, the report shall be

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informational only and not be subject to financial audit adjustment by COUNTY or State of California.

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III. Delete Exhibit BAA, Business Associate Agreement, and replace with the following:

Exhibit BAA Business Associate Agreement

1. Use and Disclosure of Protected Health Information

Except as otherwise provided in this Exhibit, the Contractor may use or disclose Protected Health Information (“PHI”)¹ to perform functions, activities or services for or on behalf of the County, as specified in the underlying agreement, provided that such use or disclosure does not violate HIPAA or other law. The uses and disclosures of PHI may not exceed the limitations applicable to the County under the regulations except as authorized for management, administrative or legal responsibilities of the Contractor. PHI includes without limitation “Electronic Protected Health Information” (“EPHI”)²

2. Requirement to Train Own Employees

The Contractor has a responsibility to provide effective training for all members of its workforce (including its own employees, management, staff, volunteers and independent contractors) who will or who are likely to have any access to or exposure to PHI or EPHI. Members of the Contractor’s workforce who use, disclose, handle, view, process, distribute, access, audit, create, receive or have any exposure to PHI or EPHI must receive training on both the HIPAA Privacy Rule and the HIPAA Security Rule. Privacy Rule Training shall meet the requirements of 45 Code of Federal Regulations Section 164.530 (b). Security Rule Training shall meet the requirements of 45 Code of Federal Regulations Section 164.308 (a)(5).

3. Further Disclosure of PHI

The Contractor shall not use or further disclose PHI other than as permitted or required by the underlying Agreement, or as required by law.

4. Safeguarding PHI

The Contractor shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the underlying Agreement. Contractor shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of EPHI that Contractor creates, receives, maintains or transmits on behalf of County. The actions taken by the Contractor to safeguard EPHI shall include, but may not be limited to:

- a. Encrypting EPHI that it stores and transmits;
- b. Implementing strong access controls, including physical locks, firewalls, and strong passwords;
- c. Using antivirus software that is upgraded regularly;
- d. Adopting contingency planning policies and procedures, including data backup and disaster recovery plans; and
- e. Conducting periodic security training.

5. Unauthorized Use or Disclosure of PHI

¹ “Protected Health Information” means individually identifiable health information including, without limitation, all information, data, documentation and materials, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

² “Electronic Protected Health Information” means Protected Health Information, which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media, Exhibit BAA HIPAA Business Associate Agreement

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The Contractor shall report to the County any use or disclosure of the PHI not provided for by the underlying Agreement or otherwise in violation of the Privacy Rule or Security Rule. Contractor shall report to County any security incidents within 10 days of becoming aware of such incidents. For purposes of this paragraph, "security incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system.

6. Agents and Subcontractors of the Business Associate

The Contractor shall ensure that any agent, including a subcontractor, to which the Contractor provides PHI received from, or created or received by the Contractor on behalf of the County, shall comply with the same restrictions and conditions that apply through the underlying Agreement to the Contractor with respect to such information. The Contractor shall ensure that any agent to whom it provides PHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such PHI. Contractor shall not use subcontractors or agents, unless it receives prior written consent from County.

7. Access to PHI

At the request of the County, and in the time and manner designated by the County, the Contractor shall provide access to PHI in a Designated Record Set to an Individual or the County to meet the requirements of 45 Code of Federal Regulations Section 164.524.

8. Amendments to Designated Record Sets

The Contractor shall make any amendment(s) to PHI in a Designated Record Set that the County directs or at the request of the Individual, and in the time and manner designated by the County in accordance with 45 Code of Federal Regulations Section 164.526.

9. Documentation of Uses and Disclosures

The Contractor shall document such disclosures of PHI 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 PHI in accordance with 45 Code of Federal Regulations Section 164.528. Contractor agrees to implement a process that allows for an accounting to be collected and maintained by Contractor and its agents or subcontractors for at least six years prior to the request, but not before the compliance date of the Privacy Rule.

10. Accounting of Disclosures

The Contractor shall provide to the County or an Individual, in the time and manner designated by the County, information collected in accordance with 45 Code of Federal Regulations Section 164.528, to permit the County to respond to a request by the Individual for an accounting of disclosures of PHI in accordance with 45 Code of Federal Regulations Section 164.528.

11. Records Available to Covered Entity and Secretary

The Contractor shall make available records related to the use, disclosure, security and privacy protection of PHI received from the County, or created or received by the Contractor on behalf of the County, to the County or to the Secretary of the United State Department of Health and Human Services for purposes of investigating or auditing the County's compliance with the HIPAA privacy and security regulations, in the time and manner designated by the County or the Secretary.

12. Destruction of PHI

- a. Upon termination of the underlying Agreement for any reason, the Contractor shall:
 1. Return all PHI received from the County, or created or received by the Contractor on behalf of the County required to be retained by the Privacy Rule; or
 2. Return or destroy all other PHI received from the County, or created or received by the Contractor on behalf of the County.

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This provision also shall apply to PHI in possession of subcontractors or agents of the Contractor. The Contractor, its agents or subcontractors shall retain no copies of the PHI. However, Contractor, its agents or subcontractors shall retain all protected information throughout the term of the underlying Agreement and shall continue to maintain the information required under Section 9 of this Exhibit for a period of six years after termination of the underlying Agreement.

- b. In the event the Contractor determines that returning or destroying the PHI is not feasible, the Contractor shall provide the County notification of the conditions that make return or destruction not feasible. If the County agrees that the return of the PHI is not feasible, the Contractor shall extend the protections of this Exhibit to such PHI and limit further use and disclosures of such PHI for so long as the Contractor, or any of its agents or subcontractors, maintains such PHI.

13. Amendments

The Parties agree to take such action as is necessary to amend the underlying Agreement as necessary for the County to comply with the requirements of the Privacy Rule and its implementing regulations.

14. Mitigation of Disallowed Uses and Disclosures

The Contractor shall mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of PHI by the Contractor in violation of the requirements of the underlying Agreement or the Privacy Rule.

15. Termination of Agreement

The County shall terminate the underlying Agreement upon knowledge of a material breach by the Contractor of which the Contractor fails to cure.

16. Definitions

Terms used, but not otherwise defined, in this Exhibit shall have the same meaning as those in the Privacy Rule.

17. Interpretation

Any ambiguity in this Exhibit shall be resolved to permit County to comply with the Privacy Rule and Security Rule.

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SIGNATURE PAGE

Sixth Amended Contract for Services of Independent Contractor between the County of Santa Barbara and **Kindred Pharmacy Services** for FY 2007-2008.

IN WITNESS WHEREOF, the parties have executed this Sixth Amended Contract to be effective on the date executed by COUNTY.

COUNTY OF SANTA BARBARA

By: _____
SALUD CARBAJAL
CHAIR, BOARD OF SUPERVISORS
Date: _____

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

CONTRACTOR

By: _____
Deputy
Date: _____

By: _____
Tax Id No 72-1205642.
Date: _____

APPROVED AS TO FORM:
DANIEL J. WALLACE
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By _____
Deputy COUNTY Counsel
Date: _____

By _____
Deputy
Date: _____

APPROVED AS TO FORM :
ALCOHOL, DRUG, AND MENTAL HEALTH
SERVICES
ANN DETRICK, PH.D.
DIRECTOR

APPROVED AS TO INSURANCE FORM:
RAY AROMATORIO
RISK PROGRAM ADMINISTRATOR

By _____
Director
Date: _____

By: _____
Date: _____

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CONTRACT SUMMARY PAGE

BC 05-017

Complete data below, print, obtain signature of authorized departmental representative, and submit this form (and attachments) to the Clerk of the Board (>\$25,000) or Purchasing (<\$25,000). See also "Contracts for Services" policy. Form is not applicable to revenue contracts.

D1. Fiscal Year..... 07-08
 D2. Budget Unit Number 043
 D3. Requisition Number.....
 D4. Department Name Alcohol, Drug, & Mental Health Services
 D5. Contact Person..... Christy Toma
 D6. Telephone..... (805) 681-4090

K1. Contract Type (check one): Personal Service Capital
 K2. Brief Summary of Contract Description/Purpose Pharmacy Services
 K3. Contract Amount..... \$ 250000 (06/07 total)
 K4. Contract Begin Date 7/1/2007
 K5. Contract End Date 6/30/2008
 K6. Amendment History

Seq#	Effective Date	ThisAmndtAmt	CumAmndtToDate	NewTotalAmt	NewEndDate	Purpose
1	07/01/07	\$25000	\$25000	\$250000	06/30/08	Increase 07/08

B1. Is this a Board Contract? (Yes/No)..... Yes
 B2. Number of Workers Displaced (if any) N/A
 B3. Number of Competitive Bids (if any)..... N/A
 B4. Lowest Bid Amount (if bid) N/A
 B5. If Board waived bids, show Agenda Date..... N/A
 and Agenda Item Number

F1. Encumbrance Transaction Code..... 1701
 F2. Current Year Encumbrance Amount \$250000 (07/08 total)
 F3. Fund Number..... 0044
 F4. Department Number 043
 F5. Division Number (if applicable).....
 F6. Account Number 7405
 F7. Cost Center number (if applicable).....
 F8. Payment Terms

V1. Vendor Numbers (A=Auditor; P=Purchasing)
 V2. Payee/CONTRACTOR Name Kindred Pharmacy Services
 V3. Mailing Address 6950 Hollister Ave. #103
 V4. City, State (two-letter) Zip (include +4 if known) Goleta, CA 93117
 V5. Telephone Number..... 8059687040
 V6. CONTRACTOR's Federal Tax ID Number (EIN or SSN)..... 72-1205642
 V7. Contact Person..... David Saldamando
 V8. Workers Comp Insurance Expiration Date 7/31/2008
 V9. Liability Insurance Expiration Date[s] (G=Genl; P=Prof) GL 7/31/2008, PL 7/31/2008
 V10. Professional License Number
 V11. Verified by (name of COUNTY staff) Christina Toma
 V12. Company Type (Check one): Sole Proprietorship Partnership Corporation

I certify information complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date: _____ Authorized Signature: _____