

**Attachment C:
Daniel Litten, M.D.,
Contractor on Payroll
Agreement FY 19-20**

AGREEMENT FOR SERVICES OF CONTRACTOR ON PAYROLL

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter **COUNTY**) and Daniel Litten MD, EID 9648, with a principal place of business at 315 Camino Del Remedio, Santa Barbara, CA (hereafter **CONTRACTOR**) wherein **CONTRACTOR** agrees to provide and **COUNTY** agrees to accept the services specified herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DESIGNATED REPRESENTATIVE.** Director at phone number 805-681-5220 is the representative of **COUNTY** and will administer this Agreement for and on behalf of **COUNTY**. Daniel Litten at phone number 805-284-4810 is the authorized representative for **CONTRACTOR**. Changes in designated representatives shall be made only after advance written notice to the other party.

2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, delivered as follows:

To **COUNTY**:
Director
Santa Barbara County
Department of Behavioral Wellness
300 N. San Antonio Road, Bldg. 3
Santa Barbara, CA 93110

To **CONTRACTOR**:
Daniel Litten, M.D.
2726 El Prado Rd.
Santa Barbara, CA 93105

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. **SCOPE OF SERVICES.** **CONTRACTOR** agrees to provide services to **COUNTY** in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. **TERM.** **CONTRACTOR** shall commence performance on 7/1/2019 and end performance upon completion, but no later than 6/30/2020 unless otherwise directed by **COUNTY** or unless earlier terminated.

5. **COMPENSATION OF CONTRACTOR.** **CONTRACTOR** shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. The maximum payment under this Agreement shall not be exceeded without a written notice from **COUNTY**.

6. **CONTRACTOR ON PAYROLL STATUS.** **CONTRACTOR** understands and agrees that **CONTRACTOR**'s term of work is governed solely by this Agreement; and that no right of tenure is created hereby; and that he/she does not and will not, by virtue of this Agreement, hold a position in any department or office of the **COUNTY**; and that **CONTRACTOR**'s services to the **COUNTY** under this Agreement are authorized pursuant to Government Code Section 31000. To the extent that this Agreement can be construed as an agreement of employment, such employment is at-will, and it shall remain at-will unless and until the parties expressly state their intention to make it otherwise, in a

writing signed by the CONTRACTOR and a duly-authorized representative of the COUNTY. CONTRACTOR warrants that CONTRACTOR is fully licensed to perform all work contemplated in this Agreement, and CONTRACTOR agrees to submit verification of licensure.

7. **BENEFITS.**

A. **Standard benefits:** COUNTY shall pay the following costs: Employer's share of either Social Security (aka FICA) or the Social Security Alternative Plan (aka SSAP); employer's share of federal Medicare health insurance; County workers' compensation insurance; State unemployment insurance; and travel expense reimbursement for mileage claims with prior written authorization.

B. **Paid leave:** CONTRACTOR shall receive paid leave as specified in Exhibit B. Paid leave shall be taken at a time determined and agreed upon in advance between CONTRACTOR and COUNTY's designated representative. Accumulated paid leave must be taken within the contract period, as paid leave cannot be accrued to subsequent agreements; unused paid leave will be lost upon expiration of the Agreement. Prorated unused paid leave will be paid out if the contract is terminated early by COUNTY. CONTRACTOR may use his or her paid leave specified in Exhibit B for holidays, vacations, sickness, jury duty, and any other absence from work, and is not otherwise entitled to any additional paid holidays, vacation, sick leave or other leave. Special requirements may apply to CONTRACTOR's coding of his or her time card in order to be able to receive paid leave.

C. **Retirement:** Unless CONTRACTOR is already a retiree, CONTRACTOR shall be a member of the Santa Barbara County Employees Retirement System ONLY if both of these conditions are true: 1) CONTRACTOR is required to work at least forty (40) hours per bi-weekly pay period; and 2) CONTRACTOR's assignment is not deemed by COUNTY to be temporary, intermittent, or seasonal. Retirement benefits shall be pro-rated according to the applicable percentage of a full-time equivalent (i.e. .5, .6, .625, .75, .8, .875, .9, or 1.0).

D. **Other:**

- (i) CONTRACTOR will be offered health insurance coverage upon execution of the contract if the CONTRACTOR is scheduled to work at least 30 hours per week during the contract period. CONTRACTOR will be offered health insurance coverage if the CONTRACTOR works an average of at least 30 hours or more per week, over a standard measurement period of 26 pay periods.
- (ii) CONTRACTOR is responsible for licensure fees, subscriptions to journals and other professional expenses not specifically detailed in this Agreement.
- (iii) CONTRACTOR may be permitted to use COUNTY vehicles as part of CONTRACTOR's assignment and shall maintain a valid California Driver's License.
- (iv) COUNTY may reimburse CONTRACTOR for necessary and prior-approved out-of-pocket expenses while performing required services for COUNTY, in accordance with COUNTY policy. All travel claims and other claim documents, when applicable, must include the board contract number. If the invoice does not properly reference the contract number, those invoices may be returned, delaying payment.

- (v) Except as required by law, CONTRACTOR is not eligible for any other job benefits accruable to an employee in the classified service of the COUNTY, unless otherwise specified herein or in Exhibit B.

8. **STANDARD OF PERFORMANCE.** CONTRACTOR represents that CONTRACTOR has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

9. **TAXES.** The COUNTY shall pay CONTRACTOR for professional services pursuant to this Agreement, payable upon biweekly submission of a time card, and such payment shall be subject to deductions and include withholding of state and federal taxes as specified in Section 7 (A) herein.

10. **CONFLICT OF INTEREST.** CONTRACTOR covenants that CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR.

11. **NONAPPROPRIATION.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated and budgeted or funds are otherwise not available for payments in the fiscal year covered by the term of the Agreement, then COUNTY will immediately notify CONTRACTOR of such occurrence and the Agreement may be terminated by COUNTY, with or without the prior notice specified in the Termination section of this Agreement. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.

12. **OWNERSHIP OF DOCUMENTS.** COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any materials under this section except after prior written approval of COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

13. **DEFENSE AND INDEMNIFICATION.** COUNTY will defend and indemnify CONTRACTOR against any claim, lawsuit, or judgment arising out of CONTRACTOR's performance of duties under this Agreement.

CONTRACTOR agrees to notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

CONTRACTOR shall bear the cost of CONTRACTOR's own defense and liability for any act or omission arising from professional duties outside the scope of this Agreement. Nothing contained herein shall be deemed to increase COUNTY's liability beyond limitations set forth by law.

14. **NONDISCRIMINATION.** COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance. CONTRACTOR agrees to comply with COUNTY's Anti-Harassment Policy.

15. **NONEXCLUSIVE AGREEMENT.** CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

16. **ASSIGNMENT.** CONTRACTOR shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

17. **TERMINATION.** Either of the parties hereto may, for any reason, prior to the expiration date of this Agreement, cancel and terminate this Agreement upon thirty (30) days' written notice to the other. Upon a material breach of the terms and conditions of the Agreement by one of the parties, the non-breaching party (including Designated Representative's superiors) may terminate this Agreement upon the mailing of a written notice of termination to the breaching party. Written notification as required under this paragraph shall be given by CONTRACTOR to the COUNTY Designated Representative. Written notification by COUNTY shall be given to the CONTRACTOR. In the case of material breach (including but not limited to: grossly negligent conduct, malpractice or criminal conduct, etc.) by CONTRACTOR, the Designated Representative or designee may immediately terminate the Agreement.

Upon termination, CONTRACTOR shall cease work (unless the notice directs otherwise), and deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process.

Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for service performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service.

18. **SECTION HEADINGS.** The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

19. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

20. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

21. **NO WAIVER OF DEFAULT.** No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

22. **ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

23. **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

24. **COMPLIANCE WITH LAW.** CONTRACTOR shall, at CONTRACTOR's sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

25. **CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

26. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

27. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

28. **PRECEDENCE.** In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions contained in the numbered sections shall prevail over those in the Exhibits.

29. **SURVIVAL.** All provisions which by their nature are intended to survive the termination of this Agreement shall survive termination of this Agreement.

Agreement for Services of Contractor on Payroll between the **County of Santa Barbara** and **Daniel Litten, M.D.**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on 7/1/2019.

ATTEST:

MONA MIYASATO,
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: Shirley de la Guerra

Date: 5-7-19

COUNTY OF SANTA BARBARA

By: Steve Lavagnino
STEVE LAVAGNINO, CHAIR
BOARD OF SUPERVISORS

Date: 5-7-19

RECOMMENDED FOR APPROVAL:
DEPARTMENT OF BEHAVIORAL WELLNESS
ALICE GLEGHORN, PH.D., DIRECTOR

By: Alice Gleghorn
Director
on behalf of Alice Gleghorn

CONTRACTOR
DANIEL LITTEN, M.D.

By: Daniel Litten

Date: 4/22/2019

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: Yvonne M. Martinez
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER CPA
AUDITOR-CONTROLLER

By: Betsy M. Schaffer
Deputy

APPROVED AS TO FORM:
RAY AROMATORIO
RISK MANAGEMENT

By: Ray Aromatorio
Risk Management

EXHIBIT A

STATEMENT OF WORK

CONTRACTOR shall provide the following services for, and on behalf of, **COUNTY** under the general direction of the Director of Behavioral Wellness Services or designee, and will perform the following duties, to include but not be limited to:

1. **On-Call and Evaluations:**

- A. **CONTRACTOR** will be on-call Monday through Friday, 10:00 PM to 7:00 AM, and for twenty four (24) hours on Saturday and Sunday, including holidays, as scheduled, to provide on-call involuntary seclusion and/or restraint evaluations at the Psychiatric Health Facility (PHF).
 - i. **WIC 5250 Certification Evaluations:** **CONTRACTOR** may be called, by PHF Administrator on-call or PHF Medical director, to perform a face-to-face mental status examination in order to complete a 5250 certification for a continued involuntary hold for a patient at the Psychiatric Health Facility (PHF) between the hours of 10:00PM and 7:00AM on weekdays, and at any time on weekends.
 - B. **CONTRACTOR MUST respond IN PERSON** to the PHF within one (1) hour from a call or page from PHF staff.
 - C. **CONTRACTOR** will confer with PHF staff specific to: patient diagnosis; behavior requiring seclusion/restraint or both; whether said patient has recently received medications; and any and all other needed relevant information.
 - D. **CONTRACTOR** will briefly interview the secluded and/or restrained patient in the presence of at least one (1) other PHF staff member.
 - E. **CONTRACTOR** will write a brief note on the designated seclusion/restraint form, including the time of the patient's interview. All notes will be signed with **CONTRACTOR'S** signature, written name and professional license number.
 - F. **CONTRACTOR** will indicate in the note that the patient was given a face-to-face evaluation and the condition, appearance and affect of the patient.
2. **CONTRACTOR** will provide the following Internal Medicine duties, on-call and as scheduled:
- A. Complete medical histories and physicals for Psychiatric Health Facility inpatients within twenty-four (24) hours, and provide follow-up medical care.
 - B. Prescribe medications and treatments and order tests.
3. **CONTRACTOR** will review the patient's clinical records.
4. **CONTRACTOR** has no authority to perform any other type of intervention.
5. **CONTRACTOR** is currently, and for the duration of this Agreement shall remain, licensed in accordance with all local, State and Federal licensure requirements as a provider of his kind. Services provided by unlicensed or uncertified persons shall not be compensated.

6. **CONTRACTOR** shall provide to Department of Behavioral Wellness Services Quality Care Management (QCM) a current copy of **CONTRACTOR'S** Drug Enforcement Agency (DEA) certificate and physician's license.
7. **CONTRACTOR** agrees to provide services in accordance with all applicable Behavioral Wellness policies, and provisions of the Lanterman-Petris-Short Act, Welfare and Institutions Code §§5000-5550, Title 9 of the California Code of Regulations, and Short-Doyle Medi-Cal policies pursuant to the requirements of the County Mental Health Plan ("MHP") (Contract No. 17-94613) between the County Department of Behavioral Wellness and the State Department of Health Care Services (DHCS), available at www.countyofsb.org/behavioral-wellness, including but not limited to subparagraphs C and F of the MHP, Exhibit E, Paragraph 7, and the applicable provisions of Exhibit D(F) to the MHP, and policy as administered by the **COUNTY'S** Director of Behavioral Wellness Services.
8. **CONTRACTOR** agrees to dispense medications in compliance with all applicable Behavioral Wellness policies, and State and Federal laws and regulations, as per California Code of Regulations Title 9, Chapter 11, Section 1810.435 (b)(2)&(3).
9. **CONTRACTOR** must be eligible to participate in Medicare, Medicaid and/or other federal health care programs; must possess a National Provider Identifier (NPI); must possess a valid Drug Enforcement agency (DEA) license in the State of California, and where applicable will be required to meet the following criteria:
 - A. Submit a completed credentialing application and/or required documentation for credentialing as applicable;
 - B. Possess a valid third-party billable provider certification (such as Medicare, Medi-Cal and/or private insurance) OR have submitted completed billable provider application, along with the required documentation, in order to obtain the appropriate billable provider status;

Failure to meet these criteria and/or 'conditions of employment' where applicable two (2) weeks PRIOR to the start work date may result in the delay of appointment and/or cancellation of employment. Once appointed, all qualified employees will be required to maintain these qualifications throughout their length of employment. Failure to demonstrate (show proof) of qualifications shall result in the termination of employment.

EXHIBIT B

CONTRACTOR ON PAYROLL Compensation

COUNTY shall pay **CONTRACTOR** for professional services pursuant to this Agreement upon biweekly submission by **CONTRACTOR** of a timesheet, and such payment shall be subject to deductions and withholding of state and federal taxes. In no event shall the compensation payable exceed the total sum of \$60,000 without written amendment. This not to exceed amount includes the following:

- \$60,000 for total paid hours by **CONTRACTOR** at the rates set forth below:
 - On-Call: **COUNTY** shall pay **CONTRACTOR** for professional service at a rate of \$67.00 per night, for each week night, and \$140.00 per night for each Saturday and/or Sunday night.
 - Seclusion/Restraint Evaluations: When **CONTRACTOR** is 'on-call' and is required to perform a face-to-face evaluation at the Psychiatric Health Facility (PHF) between the hours of 7:00 AM and 11:59 PM, **CONTRACTOR** will be paid \$200.00 for each evaluation. When said evaluation occurs between 12:00 AM and 6:59 AM, **CONTRACTOR** will be paid \$250.00 for each evaluation.
 - WIC 5250 Certification Evaluations: When **CONTRACTOR** is called, by PHF Administrator on-call or PHF Medical director, to perform a face-to-face mental status examination and complete documentation of a 5250 certification for a continued involuntary hold at the Psychiatric Health Facility (PHF) between the hours of 11:00PM and 7:00AM, **CONTRACTOR** will be paid \$800.00 for each evaluation.
 - Internal Medicine Coverage: **COUNTY** shall pay **CONTRACTOR** at a rate of \$350.00 per weekday and \$423 per weekend day when Internal Medicine duties are required. This rate is inclusive of **CONTRACTOR'S** 'on-call' rate and as such, **CONTRACTOR** shall not receive additional 'on-call' compensation for the days **CONTRACTOR** is required to perform Internal Medicine duties. **CONTRACTOR** will remain 'on-call' and available to provide evaluations after Internal Medicine duties have concluded for the day, unless otherwise agreed with **COUNTY**.
- Total paid hours includes 24 hours of paid leave (must be at least 24 hours).
- \$0 for health insurance coverage should the **CONTRACTOR** be eligible and elect coverage.