



# County of Santa Barbara BOARD OF SUPERVISORS

## Minute Order

June 23, 2015

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**Present:** 5 - Supervisor Carbajal, Supervisor Wolf, Supervisor Farr, Supervisor Adam, and Supervisor Lavagnino

ALCOHOL, DRUG AND MENTAL HEALTH SERVICES      File Reference No. 15-00516

**RE:** Consider recommendation regarding Alcohol, Drug and Mental Health Services (ADMHS) Pharmacy Contract and Request for Waiver of Competition, as follows:

- a) Approve, and authorize the Chair to execute an Agreement for Services of Independent Contractor with Evergreen Pharmaceutical of California, Incorporated (doing business as Omnicare of Southern California (Omnicare)) (not a local vendor), to continue to provide pharmaceuticals for ADMHS Psychiatric Health Facility's (PHF) clients through September 30, 2015 for a total contract maximum amount not to exceed \$150,000.00, inclusive of \$25,000.00 under Purchase Order CN17831 but which otherwise cancels, nullifies, and supersedes Purchase Order CN17831;
- b) Approve, ratify, and authorize a waiver of competitive bidding for the procurement of pharmaceuticals from Omnicare (not a local vendor), not to exceed \$150,000.00 through September 30, 2015;
- c) Determine that the above actions are necessary due to the public exigency of the prior pharmaceutical service provider's contract termination and the County's ongoing obligations to provide pharmaceutical products and services to eligible clients; and
- d) Determine that these activities are exempt from California Environmental Quality Act (CEQA) review per CEQA Guidelines Section 15378(b)(5) since the recommended actions are government administrative activities which do not involve commitment to any specific project which may result in potentially significant physical impact on the environment.

**A motion was made by Supervisor Carbajal, seconded by Supervisor Farr, that this matter be Acted on as follows:**

- a) **Approved; Chair to execute;**
- b) **through d) Approved.**

**The motion carried by the following vote:**

**Ayes:** 5 - Supervisor Carbajal, Supervisor Wolf, Supervisor Farr, Supervisor Adam, and Supervisor Lavagnino

**AGREEMENT**

**FOR SERVICES OF INDEPENDENT CONTRACTOR**

BC 16-075

**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 **Evergreen Pharmaceutical of California doing business as (DBA) Omnicare of Southern California** with an address at 8220 Remmet Avenue Canoga Park, California (hereafter Contractor) wherein Contractor agrees to provide and County agrees to accept the services specified herein.

**WHEREAS**, Contractor represents that it is specially trained, skilled, experienced, and competent to perform the special services required by County and County desires to retain the services of Contractor pursuant to the terms, covenants, and conditions herein set forth;

**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. Chuck Jones at phone number (818) 746-9800 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 personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

- To County: Director  
Santa Barbara County  
Alcohol, Drug, and Mental Health Services  
300 N. San Antonio Road  
Santa Barbara, CA 93110  
FAX: 805-681-5262
- To Contractor: Chuck Jones  
Evergreen Pharmaceutical of California DBA Omnicare of  
Southern California  
8220 Remmet Avenue Canoga Park, California 91304
- With a copy to: Omnicare, Inc.  
201 East 4<sup>th</sup> Street  
Cincinnati, OH 45202  
Attn: General Counsel

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit

## **AGREEMENT**

in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

### **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 **March 9, 2015** and end performance upon completion, but no later than **September 30, 2015** unless earlier terminated in accordance with this Agreement.

### **5. COMPENSATION OF CONTRACTOR**

In full consideration for Contractor's services, Contractor shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference.

### **6. INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that Contractor (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent Contractor as to County and not as an officer, agent, servant, employee, joint venturer, partner, or associate of County. Furthermore, County shall have no right to control, supervise, or direct the manner or method by which Contractor shall perform its work and function. However, County shall retain the right to administer this Agreement so as to verify that Contractor is performing its obligations in accordance with the terms and conditions hereof. Contractor understands and acknowledges that it shall not be entitled to any of the benefits of a County employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. Contractor shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, Contractor shall be solely responsible and save County harmless from all matters relating to payment of Contractor's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, Contractor may be providing services to others unrelated to the County or to this Agreement.

### **7. STANDARD OF PERFORMANCE**

Contractor represents that it 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.

## **AGREEMENT**

### **8. DEBARMENT AND SUSPENSION**

Contractor certifies to County that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. Contractor certifies that it shall not contract with a subcontractor that is so debarred or suspended.

### **9. TAXES**

Contractor shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. County shall not be responsible for paying any taxes on Contractor's behalf, and should County be required to do so by state, federal, or local taxing agencies, Contractor agrees to promptly reimburse County for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

### **10. CONFLICT OF INTEREST**

Contractor covenants that Contractor presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, 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. Contractor must promptly disclose to the County, in writing, any potential conflict of interest. County retains the right to waive a conflict of interest disclosed by Contractor if County determines it to be immaterial, and such waiver is only effective if provided by County to Contractor in writing. As required by 42 CFR sections 455.10 and 455.104, Contractor will complete a Conflict of Interest form provided by County.

### **11. 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, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, 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 of such items to other parties except after prior written approval of County. Contractor shall be the legal owner and Custodian of Records for all County client files generated pursuant to this Agreement, and shall comply with all Federal and State confidentiality laws, including Welfare and Institutions Code (WIC) §5328; 42 United States Code (U.S.C.) §290dd-2; and 45 CFR, Parts 160 – 164 setting forth the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Contractor shall inform all of its officers, employees, and agents of the confidentiality provision of said laws. Contractor further agrees to provide County with copies of all County client file documents resulting from this Agreement without requiring any further written release of information. Within HIPAA guidelines, County shall have the unrestricted authority to publish, disclose, distribute, and/or otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

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### **12. NO PUBLICITY OR ENDORSEMENT**

Contractor shall not use County's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. Contractor shall not use County's name or logo in any manner that would give the appearance that the County is endorsing Contractor. Contractor shall not in any way contract on behalf of or in the name of County. Contractor shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the County or its projects, without obtaining the prior written approval of County.

### **13. COUNTY PROPERTY AND INFORMATION**

All of County's property, documents, and information provided for Contractor's use in connection with the services shall remain County's property, and Contractor shall return any such items whenever requested by County and whenever required according to the Termination section of this Agreement. Contractor may use such items only in connection with providing the services. Contractor shall not disseminate any County property, documents, or information without County's prior written consent.

### **14. RECORDS, AUDIT, AND REVIEW**

Contractor shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of Contractor's profession and shall maintain all records until such time that the State Department of Health Care Services completes all actions associated with the final audit, including appeals, for the fiscal year(s) covered by this Agreement, or not less than four (4) years following the termination of this Agreement, whichever is later. All accounting records shall be kept in accordance with generally accepted accounting principles. County shall have the right to audit and review all such documents and records at any time during Contractor's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), Contractor shall be subject to the examination and audit of the California State Auditor, at the request of the County or as part of any audit of the County, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). Contractor shall participate in any audits and reviews, whether by County or the State, at no charge to County.

If federal, state or County audit exceptions are made relating to this Agreement, Contractor shall reimburse all costs incurred by federal, state, and/or County governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from County, Contractor shall reimburse the amount of the audit exceptions and any other related costs directly to County as specified by County in the notification. The provisions of the Records, Audit, and Review Section shall survive any expiration or termination of this Agreement.

### **15. INDEMNIFICATION AND INSURANCE**

Contractor agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

## **AGREEMENT**

### **16. 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.

### **17. 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.

### **18. NON-ASSIGNMENT**

Contractor shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of County and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

### **19. TERMINATION**

A. **By County.** County may, by written notice to Contractor, terminate this Agreement in whole or in part at any time, whether for County's convenience, for nonappropriation of funds, or because of the failure of Contractor to fulfill the obligations herein.

i. **For Nonappropriation of Funds.**

- a. The parties acknowledge and agree that this Agreement is dependent upon the availability of County, State, and/or federal funding. If funding to make payments in accordance with the provisions of this Agreement is not forthcoming from the County, State and/or federal governments for the Agreement, or is not allocated or allotted to County by the County, State and/or federal governments for this Agreement for periodic payment in the current or any future fiscal period, then the obligations of County to make payments after the effective date of such non-allocation or non-funding, as provided in the notice, will cease and terminate.
- b. As permitted by applicable State and Federal laws regarding funding sources, if funding to make payments in accordance with the provisions of this Agreement is delayed or is reduced from the County, State, and/or federal governments for the Agreement, or is not allocated or allotted in full to County by the County, State, and/or federal governments for this Agreement for periodic payment in the current or any future fiscal period, then the obligations of County to make payments will be delayed or be reduced accordingly or County shall have the right to terminate the Agreement. If such funding is reduced, County in its sole discretion shall determine which aspects of the Agreement shall proceed and which Services shall be performed. In these situations, County will pay Contractor for Services and Deliverables and certain of its costs. Any obligation to pay by County will not extend beyond the end of County's then-current funding period.

## AGREEMENT

- c. Contractor expressly agrees that no penalty or damages shall be applied to, or shall accrue to, County in the event that the necessary funding to pay under the terms of this Agreement is not available, not allocated, not allotted, delayed or reduced.
  - ii. **For Cause.** Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County may, at County's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, Contractor shall immediately discontinue all services affected (unless the notice directs otherwise) and notify County as to the status of its performance. The date of termination shall be the date the notice is received by Contractor, unless the notice directs otherwise.
- B. **By Contractor.** Should County fail to pay Contractor all or any part of the payment set forth in EXHIBIT B, Contractor may, at Contractor's option terminate this Agreement if such failure is not remedied by County within sixty (60) days of written notice to County of such late payment.
- C. **For Convenience.** County may terminate this Agreement in whole or in part upon sixty (60) days written notice to the Contractor. During the thirty (60) day period, Contractor shall, as directed by County, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on County from such winding down and cessation of services.
- D. Upon termination, Contractor shall deliver to County all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by Contractor in performing this Agreement, whether completed or in process, except such items as County may, by written permission, permit Contractor to retain. Notwithstanding any other payment provision of this Agreement, County shall pay Contractor for satisfactory services 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. Contractor shall furnish to County such financial information as in the judgment of County is necessary to determine the reasonable value of the services rendered by Contractor. In the event of a dispute as to the reasonable value of the services rendered by Contractor, the decision of County shall be final. The foregoing is cumulative and shall not affect any right or remedy which County may have in law or equity.

### **20. 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.

## **AGREEMENT**

### **21. 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.

### **22. 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.

### **23. TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement and each covenant and term is a condition herein.

### **24. 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.

### **25. 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.

### **26. 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.

### **27. COMPLIANCE WITH LAW**

Contractor shall, at its 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.



## **AGREEMENT**

### **28. CALIFORNIA LAW AND JURISDICTION**

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.

### **29. 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.

### **30. AUTHORITY**

All signatories and 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.

### **31. SURVIVAL**

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

### **32. 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 of the Exhibits shall prevail over those in the numbered sections.

### **33. COMPLIANCE WITH HIPAA**

Contractor is expected to adhere to Health Insurance Portability and Accountability Act (HIPAA) regulations and to develop and maintain comprehensive patient confidentiality policies and procedures, provide annual training of all staff regarding those policies and procedures, and demonstrate reasonable effort to secure written and/or electronic data. The parties should anticipate that this Agreement will be modified as necessary for full compliance with HIPAA.

### **34. COURT APPEARANCES.**

Upon request, Contractor shall cooperate with County in making available necessary witnesses for court hearings and trials, including Contractor's staff that have provided treatment to a client referred by County who is the subject of a court proceeding. County shall issue subpoenas for the required witnesses upon request of Contractor.

### **35. PRIOR AGREEMENTS.**

Upon execution, this Agreement supersedes all prior agreements between County and Contractor related to the scope of work contained in this Agreement.

## **AGREEMENT**

### **36. MANDATORY DISCLOSURE**

Contractor must disclose, in a timely manner, in writing to the County all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. Failure to make required disclosures can result in any of the remedies described in 45 C.F.R. Section 75.371 Remedies for noncompliance, including suspension or debarment. (See also 2 C.F.R. part 180 and 376, and 31 U.S.C. 3321.)

### **37. STATE ENERGY CONSERVATION PLAN**

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

### **38. PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING**

- A. Contractor, by signing its offer, hereby certifies to the best of his or her knowledge and belief that:
- i. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of Contractor to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
  - ii. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; Contractor shall complete and submit California State Standard Form-LLL, "Disclosure Form to Report Lobbying," to the County and in accordance with the instructions found therein.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **AGREEMENT**

### **THIS AGREEMENT INCLUDES:**

1. EXHIBIT A
  - i. EXHIBIT A - Statement of Work
  - ii. EXHIBIT A 1 - Omnicare Omniview
2. EXHIBIT B
  - i. EXHIBIT B – Payment Arrangements
  - ii. Exhibit B 1 – Schedule of Rates
3. EXHIBIT C – Standard Indemnification and Insurance Provisions
4. ATTACHMENT D – Organizational Service Provider Site Certification

**AGREEMENT**

Agreement for Services of Independent Contractor between the County of Santa Barbara and Evergreen Pharmaceutical of California DBA Omnicare of Southern California.

**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective on the date executed by County.

COUNTY OF SANTA BARBARA

By:   
JANET WOLF, CHAIR  
BOARD OF SUPERVISORS


Date: 6/23/15

CONTRACTOR  
OMNICARE OF SOUTHERN CALIFORNIA

By: \_\_\_\_\_

Date: \_\_\_\_\_

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

By:   
Deputy

APPROVED AS TO INSURANCE FORM:  
RAY AROMATORIO  
RISK MANAGER

By:   
Manager

ATTEST:  
MONA MIYASATO, COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By:   
Deputy Clerk

Date: 6-24-15

APPROVED AS TO FORM:  
MICHAEL C. GHIZZONI  
COUNTY COUNSEL

By:   
Deputy County Counsel

RECOMMENDED FOR APPROVAL:  
ALICE G. GLEGHORN, Ph.D.  
ALCOHOL, DRUG, AND MENTAL HEALTH SERVICES  
DIRECTOR

By:   
Director

**AGREEMENT**

Agreement for Services of Independent Contractor between the County of Santa Barbara and Evergreen Pharmaceutical of California DBA Omnicare of Southern California.

**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective on the date executed by County.

COUNTY OF SANTA BARBARA

By: \_\_\_\_\_  
JANET WOLF, CHAIR  
BOARD OF SUPERVISORS

Date: \_\_\_\_\_

CONTRACTOR  
OMNICARE OF SOUTHERN CALIFORNIA

By:  \_\_\_\_\_

Date: 6/10/15

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

By \_\_\_\_\_  
Deputy

APPROVED AS TO INSURANCE FORM:  
RAY AROMATORIO  
RISK MANAGER

By \_\_\_\_\_  
Manager

ATTEST:  
MONA MIYASATO, COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy Clerk

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
MICHAEL C. GHIZZONI  
COUNTY COUNSEL

By \_\_\_\_\_  
Deputy County Counsel

RECOMMENDED FOR APPROVAL:  
ALICE G. GLEGHORN, Ph.D.  
ALCOHOL, DRUG, AND MENTAL HEALTH SERVICES  
DIRECTOR

By \_\_\_\_\_  
Director

EXHIBIT A  
STATEMENT OF WORK

1. **Evergreen Pharmaceutical of California, Inc. doing business as Omnicare of Southern California**, located at 8220 Remmet Avenue, Canoga Park, California 91304 (Contractor) shall provide regular and emergency pharmacy products and services to the Santa Barbara County Alcohol, Drug, and Mental Health (ADMHS ) Psychiatric Health Facility (PHF) located on the First Floor, 315 Camino Del Remedio, Santa Barbara, CA 93110.
2. **ANTI-KICKBACK.** Contractor and PHF hereby certify that they will not violate the Anti-Kickback Statute (42 U.S.C. §1320a-7b(b)) with respect to their performance under this Statement of Work.
3. **RESPONSIBILITIES OF CONTRACTOR.** Omnicare of Southern California (“Omnicare”), is licensed and capable of providing prescription and nonprescription pharmaceutical products (collectively, “Pharmacy Products”), and related services (collectively, “Pharmacy Products and Services”), which PHF and its residents desire to purchase.

**A. General Services:**

- i. Provide pharmacy products and services to residents in accordance with California Code of Regulations Title 22, Code of Federal Regulations Title 42 Section 482.25, and all applicable laws and regulations governing pharmaceutical services.
- ii. Deliver pharmacy products three (3) times daily Monday through Friday and two (2) times daily Saturday and Sunday, or as otherwise mutually agreed by the parties.
- iii. Provide House Stock (over the counter medications not for any particular resident) upon request.
- iv. Label all pharmacy products in accordance with applicable laws.
- v. Maintain a drug profile on each resident serviced by Contractor.
- vi. Conduct, when requested and as mutually agreed to by the parties, in-service education programs on subjects related to pharmacy products and services.
- vii. Provide drug information and consultation to licensed professional staff regarding pharmacy products ordered.
- viii. Collaborate with PHF staff to coordinate pharmacy documentation processes.
- ix. Perform a quarterly review of medication management policies and procedures including storage of medication, labeling, and protocols for reconciliation and counting of controlled medications, and procedures for disposal of medications.
- x. Perform, when requested by ADMHS staff and subject to applicable state regulations, a remote resident medication assessment for each resident, provided that no more than four such assessments shall be provided for individual residents in any 12-month period
- xi. Have a Pharmacist on call for Emergency Services (as defined in Section 3.B) twenty-four (24) hours a day, seven (7) days a week.

EXHIBIT A  
STATEMENT OF WORK

- xii. Attend ADMHS committee meetings as needed, including but not limited to Quality Assurance meetings as requested by PHF staff.
- xiii. 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.
  - a. Contractor shall ensure that the Policy and Procedures Manual is maintained in a current, complete, and timely manner reflecting actual practices. The Manual shall be provided to PHF staff at the onset of the contract and when revisions have been added. The Manual shall include document control of the Policy and Procedures through revision control, distribution lists, and periodic internal self audits.
  - b. Contractor's Policy and Procedures Manual shall include instructions, procedures and references to ensure current and complete compliance with Medi-care and Medi-Cal requirements.
  - c. Both parties' appropriate personnel shall be trained on the contents and use of the Manual. To ensure currency of training, revisions shall be reviewed with both parties' appropriate personnel, and training will be provided by Contractor to PHF staff.
- xiv. Provide a reasonable number of medication carts if necessary for Contractor's provision of products services under this Agreement. Any carts or other equipment provided by Contractor shall remain the property of Contractor.

**B. Emergency Drug Services:**

- i. Contractor will have a Pharmacist on call 24/7 and available to provide the following Emergency Services:
  - a. At the request of PHF staff, provide any Pharmacy Product needed on an emergency basis as promptly as is reasonably practicable, and to the extent permitted by applicable law.
  - b. Provide, maintain and replenish, in a prompt and timely manner, an emergency drug supply ("E-Kit"). E-Kits shall be the property of Contractor. All withdrawals from E-Kits by PHF personnel shall be pursuant to a valid physician order in compliance with applicable law and shall be billed in accordance with Exhibit B.

**C. Medical Records:**

- i. Contractor shall provide computerized Physician Order Sheets, Medication Administration Records and Treatment Records to PHF staff upon request.

**D. Dispensing:**

- i. Medications will be provided in such fills, consisting of quantities and packaging as mutually agreed by Contractor and PHF.

EXHIBIT A  
STATEMENT OF WORK

- ii. A dispensing fee shall be payable for each fill in accordance with Exhibit B-1 Schedule of Rates. Any failure by Contractor to charge a dispensing fee at the time a prescription is filled will not operate as, or be construed to be, a waiver of PHF's obligation to pay, or the Contractor's right to charge and collect, such fee.

**E. Consultant Services:**

- i. Contractor shall provide services of a consultant pharmacist to perform on-site client chart review of PHF current residents' medication regimens on a monthly basis and give quarterly written summary reports on these findings.
- ii. Contractor's consultant pharmacist shall provide consultation to PHF staff regarding the disposal of medications at PHF.
- iii. Contractor's consultant pharmacist shall provide any other service to be performed on-site or off-site at the request of PHF.

**F. Disposal:**

- i. Contractor shall dispose of all medications not used by the PHF in accordance with applicable provisions of California law and regulations.
- ii. Unused medication is to be picked up by Contractor from PHF and returned to Contractor for credit.

**G. Omniview:**

- i. Contractor shall provide access for designated PHF staff to Contractor's Omniview web-based system, in accordance with Exhibit A-1.

**H. Discharge Medication:**

- i. Contractor shall establish a separate billing account for discharge medications prescribed to clients of the PHF.
- ii. Contractor shall provide discharge medications, as prescribed, to clients of the PHF.
- iii. For each discharge medication supplied, Contractor shall attempt to first bill any third party, including Medi-Cal and Medicare, and/or client for Discharge Medications, and credit County's account for amounts collected.
- iv. Contractor shall provide proof of third-party billing attempts for discharge medications when reimbursement is not available from other sources, as described in Exhibit B.



EXHIBIT A  
STATEMENT OF WORK

**4. LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS, AND CERTIFICATES.**

- A. Contractor shall obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations, accreditations, and certificates (including, but not limited to, certification as a Short-Doyle/Medi-Cal provider if Title XIX Short-Doyle/Medi-Cal services are provided hereunder), as required by all Federal, State, and local laws, ordinances, rules, regulations, manuals, guidelines, and directives, which are applicable to Contractor's facility(ies) and services under this Agreement. Contractor shall further ensure that all of its officers, employees, and agents, who perform services hereunder, shall obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations, and certificates which are applicable to their performance hereunder. A copy of such documentation shall be provided to Alcohol, Drug, and Mental Health Services (ADMHS) Quality Care Management (QCM) Division, upon request.
- B. Contractor shall ensure that all staff providing services under this Agreement retain active licensure. In the event the license status of any Contractor staff cannot be confirmed, the staff member shall be prohibited from providing services under this Agreement.
- C. If Contractor is a participant in the Short-Doyle/Medi-Cal program, Contractor shall keep fully informed of and in compliance with all current Short-Doyle/Medi-Cal Policy Letters, including, but not limited to, procedures for maintaining Medi-Cal certification of all its facilities.

**5. REPORTS.**

- A. Contractor shall maintain records and make statistical reports as required by County and the State Department of Health Care Services, in accordance with California Code of Regulations Title 22, Code of Federal Regulations Title 42 Section 482.25, and all applicable laws and regulations governing pharmaceutical services or applicable agency, on forms provided by either agency. Upon County's request, Contractor shall provide reports concerning Contractor's activities as related to the services provided in this Agreement.

**6. STANDARDS.**

- A. Contractor agrees to comply with all Medi-Cal requirements, including, but not limited to those specified in Attachment D, Organizational Service Provider Site Certification.
- B. Contractor shall make its service protocols and outcome measures data available to County and to Medi-Cal site certification reviewers.

**7. CONFIDENTIALITY.**

- A. Contractor and Contractor's staff agree to abide by all Federal and State laws pertaining to the confidentiality of client records and information, including Welfare and Institutions Code, Section 5328 and Section 5330.

EXHIBIT A  
STATEMENT OF WORK

**8. NOTIFICATION REQUIREMENTS.**

- A. Contractor shall immediately notify ADMHS QCM Division at 805-681-5113 in the event of:
- i. Known serious complaints against licensed/certified staff;
  - ii. Restrictions in practice or license/certification as stipulated by a State agency;
  - iii. Staff privileges restricted at a hospital; or
  - iv. Other action instituted which affects staff license/certification or practice (for example, sexual harassment accusations).
  - v. Any event triggering Incident Reporting, as defined in ADMHS Policy and Procedure #28, Unusual Occurrences Incident Report.
- B. Contractor shall immediately contact the ADMHS Compliance Hotline (805-884-6855) should any of the following occur:
- vi. Suspected or actual misappropriation of funds under Contractor's control
  - vii. Legal Suits initiated specific to the Contractor's practice;
  - viii. Initiation of criminal investigation of the Contractor
  - ix. HIPAA breach
- C. For clients receiving direct services from both ADMHS and Contractor staff, Contractor shall immediately notify the client's ADMHS Case Manager or other ADMHS staff involved in the client's care, or the applicable Regional Manager should any of the following occur: side effects requiring medical attention or observation, behavioral symptoms presenting possible health problems, or any behavioral symptom that may compromise the appropriateness of the placement.
- D. Contractor may contact [admhscontractsstaff@co.santa-barbara.ca.us](mailto:admhscontractsstaff@co.santa-barbara.ca.us) for any contractual concerns or issues.
- E. "Immediately" means as soon as possible but in no event more than twenty-four (24) hours after the triggering event. Contractor shall train all personnel in the use of the ADMHS Compliance Hotline (Phone number: 805-884-6855).

**9. Responsibilities of PHF.** County's PHF is licensed as a Psychiatric Health Facility, for which it which it requires pharmaceutical products and related services, in accordance with Title 22 and other applicable state and federal laws and regulations.

- A. **General:** To assist Contractor with performing its obligations under this Agreement, PHF shall do all of the following:
- i. Implement Contractor's policies and procedures.
  - ii. Provide Contractor access to all PHF resident records, as reasonably required and in compliance with HIPAA regulations.

EXHIBIT A  
STATEMENT OF WORK

- iii. Make available to Contractor adequate working and storage space within PHF to allow Contractor to perform its obligations under this Agreement.
- iv. Order exclusively from Contractor all pharmacy products and services required for individual PHF residents.
- v. Promptly notify Contractor of any changes in resident medication upon receipt of physicians' orders.
- vi. Promptly notify Contractor of any room transfer or the discharge of any resident.
- vii. 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.

**B. Admissions:**

- i. Upon admission-in of each PHF resident, PHF shall provide information to such resident (or such resident's responsible party) about the Pharmacy Products and Services provided by Contractor and any applicable policies and procedures of Contractor.

**C. Discharge Medication:**

- i.. Establish separate accounts for PHF inpatient and discharge medication.
- ii. PHF shall 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.

**D. Contractor Documents:** PHF shall not reproduce or permit the reproduction of Contractor's documents, manuals or forms, nor circulate such items to any individual or entity, except as necessary to ensure proper administration of the provision of Pharmacy Products and Services.

**E. Dispose of medication:** PHF shall dispose of medications in the following manner:

- i. All narcotics shall be disposed of within the PHF by a PHF Registered Nurse and a Contract Pharmacist.
- ii. To provide proper disposal of unused medications, 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, as provided in Section 3.E above.
- iii. All other medication disposal at PHF shall be processed via a separate vendor.

EXHIBIT A-1  
STATEMENT OF WORK

**OMNICARE OMNIVIEW**

1. **Program Description.** The Omnicare Omniview™ web-based system, which includes the website portal and information (collectively, the “System”), provides access to patient clinical and financial information. The System is proprietary and for use in the creation, management, and storage of Contractor, County and PHF Resident data. The System is designed to provide County with retrievable management information and other value-added functionality to deliver client care and services.
  - A. Contractor warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. Contractor at its own expense shall defend, indemnify, and hold harmless County against any claim that any Copyrightable Works or Inventions or other items provided by Contractor hereunder infringe upon intellectual or other proprietary rights of a third party, and Contractor shall pay any damages, costs, settlement amounts, and fees (including attorneys’ fees) that may be incurred by County in connection with any such claims. This provision shall survive expiration or termination of this Agreement.
  
2. **Contractor Obligations.** Contractor shall:
  - A. Configure the accounts for County’s assigned system administrators and/or users.
  - B. Establish County account within the System.
  - C. Provide administrative access to County’s assigned system administrators within fifteen (15) days after Contractor has been provided the necessary information from County to configure the System for County’s account.
  - D. Provide website tools for the administration of user accounts.
  - E. Provide technical support to the system administrators.
  
3. **County Obligations.** County shall:
  - A. Designate a System administrator and provide Contractor other information necessary to establish County’s and designated user accounts.
  - B. Assure System security and notify Contractor immediately of any change in the authorized system administrators.
  - C. Provide a secure Internet connection and computer hardware using a high speed Internet connection between County and the Internet.
  - D. Provide and maintain user accounts so authorized by County’s system administrators.
  
4. **Material Default.** Failure by County to adhere to any requirement of this Exhibit A-1 is considered a material failure by County to perform its obligations under the Agreement and will be a basis for Contractor to terminate the Agreement.

EXHIBIT A-1  
STATEMENT OF WORK

5. **Modification/Termination.** Contractor may unilaterally, at any time and in its sole discretion, amend, modify, revise, update or otherwise change or terminate all or part of the System and/or this Exhibit A-1.
  
6. **Rights Upon Termination.** Upon termination of this Exhibit A-1, all rights granted to County hereunder will immediately cease, and County must permanently desist from the further use of the System and withdraw all login rights of all users. County must return to Contractor any and all materials provided by Contractor, including Confidential Information in County's possession. Termination of access to Omniview™ by Contractor shall have no effect on the pharmaceutical services described in this Agreement.

## EXHIBIT B

### PAYMENT ARRANGEMENTS

#### Periodic Compensation (with attached Schedule of Rates and Contract Maximum)

1. **CONTRACTOR SERVICES.** For Contractor services to be rendered under this Agreement, Contractor shall be paid at the rate specified in this Exhibit B, for a maximum contract value not to exceed **\$150,000**.
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. The invoice must show the Board Contract number, client's identification number, medication, date of service, the rate, the total cost broken down by client, and clearly identify discharge medications. 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. **CONSULTATION.** Invoice must show the Board Contract number, date, rate, and units of service for consultation services described in Exhibit A, Section 3. E.
5. 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.
6. County Designated Representative:

Alcohol, Drug and Mental Health Services  
Attn: Accounts Payable  
429 North San Antonio Road  
Santa Barbara, CA 93110
7. **CHARGES FOR SERVICES.** Medication billing to County shall be divided into three (3) categories:
  - A. Stock medication, as defined by PHF staff and retained in PHF. Stock medications shall be pre-paid, delivered to and held by PHF.
  - B. Medication for PHF Residents (Inpatient):
    - i. Residents shall be provided Medi-Cal formulary medications which 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. In the event County has reimbursed Contractor for medications also reimbursed by client, Contractor shall credit County's account for amounts collected.

## EXHIBIT B

### 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 Medicare, 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.

D. All medications and supplies billed to the County (if any) shall be billed the rates specified in Exhibit B 1.

### E. Consulting services:

- i. Consultations will be billed at \$65.00 per hour for in-house services.
- ii. No charges will be made for information calls made by staff after normal hours of operation.

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

**EXHIBIT B 1 MH  
SCHEDULE OF RATES AND CONTRACT MAXIMUM**

<u>Type of Service</u>	<u>Billing Increment</u>	<u>Rate</u>
Disbursement of Pharmaceuticals	Per client medication charge	See table below
Consultation	Per hour for in house services	\$65.00
<b>Total Maximum Contract Not to Exceed:</b>		<b>\$150,000</b>

<b>PRICING INFORMATION FOR PHARMACY PRODUCTS</b>	
Rx Brands (Patient Specific):	Wholesale Acquisition Cost +3.75%+ \$8.00
Rx Generics =>3 Manufacturers (Patient Specific):	Average Wholesale Price - 55% + \$8.00
Rx Generics <3 Manufacturers (Patient Specific):	Average Wholesale Price - 25% + \$8.00
Over the Counter Brands (Patient Specific):	Wholesale Acquisition Cost +30%+\$1.99
Over the Counter Generics =>3 Manufacturers (Patient Specific):	Wholesale Acquisition Cos +30%+\$1.99
Over the Counter Generics <3 Manufacturers (Patient Specific):	Wholesale Acquisition Cost +30%+\$1.99
House Stock - Bulk OTC's:	RX Brands = Wholesale Acquisition Cost +12.5% RX Generic Brands = Average Wholesale Price - 35%
House Stock - Bulk Vaccines:	RX Brands = Wholesale Acquisition Cost +18.75% RX Generic = Average Wholesale Price - 5%



## EXHIBIT C

### Indemnification and Insurance Requirements (For Professional Contracts)

#### INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

#### NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

#### INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

##### A. Minimum Scope of Insurance Coverage

shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** 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.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for 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.

## EXHIBIT C

### B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents 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 if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – 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 effect 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.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.

## EXHIBIT C

9. **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.
10. **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 contract 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.
11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

## ATTACHMENT D

### ORGANIZATIONAL SERVICE PROVIDER SITE CERTIFICATION

(Applicable to programs described in Exhibit A)

**COMPLIANCE REQUIREMENTS.** Contractor hereby represents and warrants the following, as applicable:

- A. 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 its kind.
- B. The space owned, leased, or operated by the Contractor and used for services or staff meets all local fire codes. Contractor shall provide a copy of fire clearance to Quality Assurance/Utilization Management.
- C. The physical plant of the site owned, occupied, or leased by the Contractor and used for services or staff is clean, sanitary, and in good repair.
- D. Contractor establishes and implements maintenance policies for the site owned, occupied, or leased by the Contractor and used for services or staff, to ensure the safety and well-being of clients and staff.
- E. Contractor has a current administrative manual which includes: personnel policies and procedures, general operating procedures, service delivery policies, and procedures for reporting unusual occurrences relating to health and safety issues.
- F. The Contractor maintains client records in a manner that meets the requirements of the County pursuant to the latest edition of the California State Mental Health Plan, and applicable state and federal standards.
- G. Contractor has staffing adequate to allow the County to claim federal financial participation for the services the Contractor delivers to Medi-Cal beneficiaries.
- H. For Contractors that provide or store medications, the Contractor stores and dispenses medications in compliance with all pertinent State and Federal standards, specifically:
  1. All drugs obtained by prescription are labeled in compliance with Federal and State laws. Prescription labels may be altered only by authorized personnel.
  2. Drugs intended for external use only or food stuffs are stored separately from drugs for internal use.
  3. All drugs are stored at proper temperatures. Room temperature drugs should be stored at 59 – 86 degrees Fahrenheit, and refrigerated drugs must be stored at 36 – 46 degrees Fahrenheit.
  4. Drugs are stored in a locked area with access limited only to those medical personnel authorized to prescribe, dispense, or administer medication.
  5. Drugs are not retained after the expiration date. IM (Intramuscular) multi-dose vials are to be dated and initialed when opened.

## ATTACHMENT D

6. A drug log is to be maintained to ensure the Contractor disposes of expired, contaminated, deteriorated, and abandoned drugs in a manner consistent with State and Federal laws.
7. Contractor's Policies and Procedures manual addresses the issues of dispensing, administration and storage of all medications.