

AGREEMENT

FOR SERVICES OF INDEPENDENT CONTRACTOR (For this Contract Only)

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 **Greeley Company Inc.** with an address at 5 Cherry Hill Drive, Suite 200 Danvers, Massachusetts (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. Terry M. Laurie at phone number 818-772-4209 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
 Department of Behavioral Wellness
 300 N. San Antonio Road
 Santa Barbara, CA 93110
 FAX: 805-681-5262

To Contractor: Terry M. Laurie
 The Greeley Company
 5 Cherry Hill Drive, Suite 200
 Danvers, MA 01923
 Phone: 818-772-4209

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or at such other address or to such other person Contractor agrees to provide services to County in accordance with EXHIBIT A attached hereto and incorporated herein by reference. 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 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

Please see Exhibit A--Statement of Work.

4. TERM

Contractor shall commence performance on 8/15/2016 and end performance upon completion, but no later than 6/30/2017 unless otherwise directed by County or unless earlier terminated.

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. Permits and/or licenses shall be obtained and maintained by Contractor without additional compensation.

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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 455.101 and 455.104, Contractor will complete a Conflict of Interest form provided by County.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Each party shall retain rights and ownership of all intellectual property, including without limitation all know-how, trade secrets, copyrights, and patentable inventions relating thereto, including materials notes, designs, technical data, ideas, know-how, research, reports, documentation and other information related thereto ("Intellectual Property"), that was developed and/or purchased prior to this Agreement. Greeley shall retain ownership of all Intellectual Property made or conceived or reduced to practice or developed by Greeley during the term of this Agreement. Upon full payment by Client for the services performed under this Agreement, Greeley hereby grants to Client the perpetual, nonexclusive, nontransferable, worldwide, royalty-free right and license to use its Intellectual Property included in the deliverables under this agreement for Client's internal purposes only. Client shall have no rights to sell, license, or distribute the work products (including future modifications) to any outside party without the prior written permission of Greeley.

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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. 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.

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.

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.

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18. NON-ASSIGNMENT

Neither party may assign its rights or obligations under this Agreement without the express written consent of the other party, except that either party may assign this Agreement in connection with the transfer of all or substantially all of its assets, whether by sale, merger or otherwise. This Agreement shall be binding upon the parties hereto and shall inure to the benefit of their respective successors or assigns.

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.
1. **For Convenience.** County may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) 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.
 2. **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. County will be responsible for payment of all services and expenses provided up to the written notification to contractor of such non-allocation or non-funding by applicable County, State, and/or Federal government.
 - 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. In these situations, County will pay Contractor for Services Deliverables. Any obligation to pay by County will not extend beyond the end of County's then-current funding period.

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- 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 Except for the County's responsibility for payment of all services and expenses provided up to the written notification to contractor of such non-allocation or non-funding by applicable County, State, and/or Federal government.
3. **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 thirty (30) days of written notice to County of such late payment.
- C. **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.

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.

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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.

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.

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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(s), 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. 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 this Agreement. Failure to make required disclosures can result in any of the remedies described in 45 C.F.R. Section 75.371, including suspension or debarment. (See also 2 C.F.R. part 180 and 376, and 31 U.S.C. 3321.)

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35. NON-SOLICITATION

During the term of this Agreement and for a period of one year following the termination of this Agreement (the "Restricted Period"), Client shall not: (i) employ, retain or engage (as an employee, consultant, or independent contractor), or induce or attempt to induce to be employed, retained or engaged, any person who is or was during the Restricted Period an employee, consultant or independent contractor of Greeley who participated in this engagement; (ii) induce or attempt to induce any person or entity who participated in this engagement as an employee, consultant, or independent contractor of Greeley at any time during the Restricted Period to terminate his or her employment or other relationship with Greeley.

36. CONFIDENTIAL INFORMATION

Information supplied by each party in the course of performing the services under this Agreement shall constitute Confidential Information. Confidential Information which is disclosed by either party to the other for the purpose of performing under this Agreement shall be protected by the receiving party and shall not be disseminated, disclosed or used for any purpose except in connection with the performance of this Agreement. However, neither party shall be required to keep confidential any information which: (a) is or becomes publicly available, (b) is already in that party's possession at the time of disclosure by the other party, (c) is independently developed by that party outside of the term or scope of this Agreement, (d) is rightfully obtained from third parties or (e) is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

37. WARRANTY/LIMITATION OF LIABILITY

Greeley warrants that it will perform the services under the Agreement with reasonable skill and care. This express warranty extends only to Client and not to any third parties. This express warranty is in lieu of all other warranties, either express or implied, including warranties of merchantability, non-infringement and fitness for a particular purpose. Greeley, its employees, officers, and/or directors will not be liable for any consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses or losses regardless of the form of action, damage, claim, liability, cost, or expense. Notwithstanding the above, Greeley's liability to Client in connection with the provision of the services shall not be greater than the amount paid to Greeley pursuant to this Agreement.

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Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **Greeley Company, Inc.**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on August 15, 2016.

COUNTY OF SANTA BARBARA:

By: _____
PETER ADAM
CHAIR, BOARD OF SUPERVISORS

Date: _____

ATTEST:

MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

CONTRACTOR:

Greeley Company, Inc.

By: _____
Deputy Clerk

Date: _____

By: _____
Authorized Representative

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:

THEODORE A. FALLATI, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

RECOMMENDED FOR APPROVAL:

ALICE GLEGHORN, PH.D., DIRECTOR
DEPARTMENT OF BEHAVIORAL WELLNESS

APPROVED AS TO INSURANCE FORM:

RAY AROMATORIO
RISK MANAGEMENT

By: _____
Director

By: _____
Risk Management

EXHIBIT A

STATEMENT OF WORK

1. **PERFORMANCE.** The Greeley Company (Contractor), a team of regulatory compliance consultants, shall support Santa Barbara County by providing assistance with readiness for Centers for Medicare and Medicaid Services' (CMS) re-survey of Santa Barbara County's Psychiatric Health Facility (PHF). Contractor shall develop and assist with implementation of compliance strategies with applicable regulations identified by CMS for the benefit of Santa Barbara County's Psychiatric Health Facility (PHF).

Contractor shall:

- A. Have the background, training, work experience, accreditation, licenses, and supervision necessary for the performance of services in a manner of, and according to the standards observed by a practitioner of the same profession and in keeping with all pertinent Federal, State, and County laws; and
- B. Warrant that said accreditation and licensing information furnished to County is complete and accurate, and notify County promptly of any changes in this information.

2. **OBJECTIVES.**

- A. Coordinate implementation of corrective actions and monitor compliance in preparation for re-survey;
- B. Assist with re-survey readiness in the areas of:
 - i. CMS-identified deficient areas;
 - ii. CMS correspondence review and guidance;
 - iii. Plan of correction development and/or guidance; and
 - iv. Plan of correction implementation, oversight and/or guidance.

3. **SERVICES.** Contractor will assist in completing the following deliverables:

- A. Continued assistance following CMS survey response that documented activities needing improvement and recommended action plans to achieve compliance;
- B. Credible Allegation of Compliance and Correction Response:
 - i. Responses to CMS summarizing corrective actions for deficiencies.
- C. Provide real-time feedback, coaching and recommendations to staff when issues are identified for the ongoing implementation;
- D. Educate clinical, administrative and operations staff on how to effectively demonstrate their compliance to CMS survey team;

EXHIBIT A

STATEMENT OF WORK

- E. Present other findings and recommendations verbally to Behavioral Wellness and County Counsel under Attorney Client Privilege, in exit conference; and
 - F. Assist Behavioral Wellness to Develop and prepare action plans to implement improvements effectively.
 - G. Implementation Support of Correction Response:
 - i. On-site and off-site consulting assistance focused on Plan of Correction implementation, policy and procedure development, staff education/mentoring and preparation of a survey evidence binder. Plan of correction implementation deliverables will be presented in the survey evidence binder.
4. Staffing.
- A. This engagement will be staffed with Contractor consultants who participated in the on-site assessment. These include the following staff members:

Cheryl Jacobs, compliance behavioral health nurse on-site four (4) days per week for the weeks of 8/14, 8/22, 8/29, 9/5, and 9/12.

Lisa Eddy, compliance advisory consultant, off-site for approximately 8 hours per week.

Dan Ross, compliance pharmacy consultant, off-site to support pharmacy policy and procedure development, approximately 2 hours per week.

EXHIBIT B

PAYMENT ARRANGEMENTS

Periodic Compensation (with attached Schedule of Rates)

1. Contract Maximum Value. For services to be rendered under this contract, Contractor shall be paid at the rate specified in the Schedule of Rates (Exhibit B-1), with a maximum value not to exceed \$130,000 without a properly executed amendment.
2. Payment for Services. 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. Payment for services shall be billed weekly and based upon the expenses and hourly rates for personnel, as defined in EXHIBIT B-1. Invoices submitted for payment, based upon EXHIBIT B-1, must contain sufficient detail and provide supporting documentation to enable an audit of the charges. Credit card payments will not be accepted.
3. Additional Reimbursements. County shall reimburse Greeley for all costs incurred by Greeley (including, but not limited to, reasonable attorneys' fees) in collecting such overdue amounts from County.

County to pay a \$25,000 deposit which will be held and applied at the conclusion of the engagement. The deposit is payable upon receipt and must be received prior to the commencement of the first on-site services.

4. Proper Invoice. Contractor shall submit to County's Designated Representative an invoice or certified claim on the County treasury for the service performed over the period specified. County's representative shall evaluate the quality of the service performed, and if found to be satisfactory, shall initiate payment processing.
 - A. The invoice must show the Purchase Agreement number, the services performed or detailed statement of purchases with receipts, the rate and authorization form, if applicable.
 - B. County's Designated Representative:

Santa Barbara County
Department of Behavioral Wellness
Attn: Accounts Payable
429 North San Antonio Road
Santa Barbara, CA 93110
admhs_accounts_payable@co.santa-barbara.ca.us

5. Correction of Work. County's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of County's right to require Contractor to correct such work or billings or seek any other legal remedy.

EXHIBIT B-1

SCHEDULE OF RATES

<u>Type of Service</u>	<u>Cost Per Unit</u>	<u>Units of Service</u>	<u>Total Maximum Contract Value</u>
Consulting Services: CMS Re-Survey Implementation Support for PHF	\$500 Per hour per consultant for onsite and offsite assistance	Not to exceed contract value	\$130,000
Total Maximum Contract Value not to Exceed: *Inclusive of deposit, travel, meals, accommodations, taxes and out of pocket expenses.			\$130,000

EXHIBIT C

Indemnification and Insurance Requirements (For This Contract Only)

INDEMNIFICATION

A. Indemnification pertaining to other than Professional Services:

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, arising out of or related to the CONTRACTOR'S work or activities for the COUNTY and for any costs or expenses (including, but not limited to reasonable attorneys' fees) incurred by COUNTY on account of any such claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation does not apply to the COUNTY's sole negligence or willful misconduct.

B. Indemnification pertaining to Professional Services:

CONTRACTOR agrees to defend, indemnify 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 the negligent performance or attempted performance of the provisions hereof; including any willful or negligent act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him to the fullest extent allowable by law.

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.

EXHIBIT C

3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$100,000 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.

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 workers compensation insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation for workers compensation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer for workers compensation.
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.

EXHIBIT C

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.
9. **Subcontractors** – CONTRACTOR shall maintain professional services insurance meeting all the requirements stated herein for any subcontractors providing services under this agreement.
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 three (3) 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 three (3) years after completion of contract work.
11. **Special Risks or Circumstances** – COUNTY reserves the right to request reasonable modifications to these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. Contractor will not reasonably withhold agreement.

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Any mutually agreed upon 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.