

## AGREEMENT FOR SERVICES OF CONTRACTOR ON PAYROLL

**THIS AGREEMENT** (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter **COUNTY**) and Fred Berge M.D., EID 13934, with a principal place of business at 696 Kickapoo Dr., Ventura, CA (hereafter **CONTRACTOR**) wherein **CONTRACTOR** agrees to provide and **COUNTY** agrees to accept the services specified herein.

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

1. **DESIGNATED REPRESENTATIVE.** Medical Director at phone number 805-681-5220 is the representative of **COUNTY** and will administer this Agreement for and on behalf of **COUNTY**. Fred Berge at phone number 8057097103 is the authorized representative for **CONTRACTOR**. Changes in designated representatives shall be made only after advance written notice to the other party.
2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, delivered as follows:

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

To **CONTRACTOR**:  
Fred Berge, M.D.  
696 Kickapoo Dr.  
Ventura, CA 93001

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

3. **SCOPE OF SERVICES.** **CONTRACTOR** agrees to provide services to **COUNTY** in accordance with EXHIBIT A attached hereto and incorporated herein by reference.
4. **TERM.** **CONTRACTOR** shall commence performance on 7/1/2016 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.** **CONTRACTOR** shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. The maximum payment under this Agreement shall not be exceeded without a written notice from **COUNTY**.
6. **CONTRACTOR ON PAYROLL STATUS.** **CONTRACTOR** understands and agrees that **CONTRACTOR'S** term of work is governed solely by this Agreement; and that no right of tenure is created hereby; and that he/she does not and will not, by virtue of this Agreement, hold a position in any department or office of the **COUNTY**; and that **CONTRACTOR'S** services to the **COUNTY** under this Agreement are authorized pursuant to Government Code Section 31000. To the extent that this Agreement can be construed as an agreement of employment, such employment is at-will, and it shall remain at-will unless and until the parties expressly state their intention to make it otherwise, in writing signed by the **CONTRACTOR** and a duly-authorized representative of the **COUNTY**. **CONTRACTOR** warrants that **CONTRACTOR** is fully licensed to

perform all work contemplated in this Agreement, and **CONTRACTOR** agrees to submit verification of licensure.

## 7. **BENEFITS.**

- A. **Standard benefits:** **COUNTY** shall pay the following costs: Employer's share of either Social Security (aka FICA) or the Social Security Alternative Plan (aka SSAP); employer's share of federal Medicare health insurance; County workers' compensation insurance; State unemployment insurance; and travel expense reimbursement for mileage claims with prior written authorization.
- B. **Paid leave:** **CONTRACTOR** shall receive paid leave as specified in Exhibit B. Paid leave shall be taken at a time determined and agreed upon in advance between **CONTRACTOR** and **COUNTY'S** designated representative. Accumulated paid leave must be taken within the contract period, as paid leave cannot be accrued to subsequent agreements; unused paid leave will be lost upon expiration of the Agreement. Prorated unused paid leave will be paid out if the contract is terminated early by **COUNTY**. **CONTRACTOR** may use his or her paid leave specified in Exhibit B for holidays, vacations, sickness, jury duty, and any other absence from work, and is not otherwise entitled to any additional paid holidays, vacation, sick leave or other leave. Special requirements may apply to **CONTRACTOR'S** coding of his or her time card in order to be able to receive paid leave.
- C. **Retirement:** **CONTRACTOR** shall be a member of the Santa Barbara County Employees Retirement System ONLY if both of these conditions are true: 1) **CONTRACTOR** is required to work at least forty (40) hours per bi-weekly pay period; and 2) **CONTRACTOR'S** assignment is not deemed by **COUNTY** to be temporary, intermittent, or seasonal. Retirement benefits shall be pro-rated according to the applicable percentage of a full-time equivalent (i.e. .5, .6, .625, .75, .8, .875, .9, or 1.0).
- D. **Other:**
- (i) **CONTRACTOR** will be offered health insurance coverage upon execution of the contract if the **CONTRACTOR** is scheduled to work at least 30 hours per week during the contract period. **CONTRACTOR** will be offered health insurance coverage if **CONTRACTOR** works an average at least 30 hours or more per week, over a standard measurement period of 26 pay periods.
  - (ii) **CONTRACTOR** is responsible for licensure fees, subscriptions to journals and other professional expenses not specifically detailed in this Agreement.
  - (iii) **CONTRACTOR** may be permitted to use **COUNTY** vehicles as part of **CONTRACTOR'S** assignment and shall maintain a valid California Driver's License.
  - (iv) **COUNTY** may reimburse **CONTRACTOR** for necessary and prior-approved out-of-pocket expenses while performing required services for **COUNTY**, in accordance with **COUNTY** policy. All travel claims and other claim documents, when applicable, must include the board contract number. If the invoice does not properly reference the contract number, those invoices may be returned, delaying payment.
  - (v) Except as required by law, **CONTRACTOR** is not eligible for any other job benefits accruable to an employee in the classified service of the **COUNTY**, unless otherwise specified herein or in Exhibit B.

8. **STANDARD OF PERFORMANCE.** **CONTRACTOR** represents that **CONTRACTOR** has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, **CONTRACTOR** shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which **CONTRACTOR** is engaged. All products of whatsoever nature, which **CONTRACTOR** delivers to **COUNTY** pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in **CONTRACTOR'S** profession. **CONTRACTOR** shall correct or revise any errors or omissions, at **COUNTY'S** request without additional compensation. Permits and/or licenses shall be obtained and maintained by **CONTRACTOR** without additional compensation.
9. **TAXES.** The **COUNTY** shall pay **CONTRACTOR** for professional services pursuant to this Agreement, payable upon biweekly submission of a time card, and such payment shall be subject to deductions and include withholding of state and federal taxes as specified in Section 7(A) herein.
10. **CONFLICT OF INTEREST.** **CONTRACTOR** covenants that **CONTRACTOR** presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. **CONTRACTOR** further covenants that in the performance of this Agreement, no person having any such interest shall be employed by **CONTRACTOR**.
11. **NONAPPROPRIATION.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated and budgeted or funds are otherwise not available for payments in the fiscal year covered by the term of the Agreement, then **COUNTY** will immediately notify **CONTRACTOR** of such occurrence and the Agreement may be terminated by **COUNTY**, with or without the prior notice specified in the Termination section of this Agreement. Subsequent to termination of this Agreement under this provision, **COUNTY** shall have no obligation to make payments with regard to the remainder of the term.
12. **OWNERSHIP OF DOCUMENTS.** **COUNTY** shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. **CONTRACTOR** shall not release any materials under this section except after prior written approval of **COUNTY**.

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

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

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

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

14. **NONDISCRIMINATION.** **COUNTY** hereby notifies **CONTRACTOR** that **COUNTY'S** Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to

this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and **CONTRACTOR** agrees to comply with said ordinance. **CONTRACTOR** agrees to comply with **COUNTY'S** Anti-Harassment Policy.

15. **NONEXCLUSIVE AGREEMENT.** **CONTRACTOR** understands that this is not an exclusive Agreement and that **COUNTY** shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by **CONTRACTOR** as the **COUNTY** desires.
16. **ASSIGNMENT.** **CONTRACTOR** shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of **COUNTY** and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.
17. **TERMINATION.** Either of the parties hereto may, for any reason, prior to the expiration date of this Agreement, cancel and terminate this Agreement upon thirty (30) days' written notice to the other. Upon a material breach of the terms and conditions of the Agreement by one of the parties, the non-breaching party (including Designated Representative's superiors) may terminate this Agreement upon the mailing of a written notice of termination to the breaching party. Written notification as required under this paragraph shall be given by **CONTRACTOR** to the **COUNTY** Designated Representative. Written notification by **COUNTY** shall be given to the **CONTRACTOR**. In the case of material breach (including but not limited to: grossly negligent conduct, malpractice or criminal conduct, etc.) by **CONTRACTOR**, the Designated Representative or designee may immediately terminate the Agreement.

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

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

18. **SECTION HEADINGS.** The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.
19. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
20. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to **COUNTY** is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.
21. **NO WAIVER OF DEFAULT.** No delay or omission of **COUNTY** to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and

remedy given by this Agreement to **COUNTY** shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of **COUNTY**.

22. **ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.
23. **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.
24. **COMPLIANCE WITH LAW.** **CONTRACTOR** shall, at **CONTRACTOR'S** sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of **CONTRACTOR** in any action or proceeding against **CONTRACTOR**, whether **COUNTY** is a party thereto or not, that **CONTRACTOR** has violated any such ordinance or statute, shall be conclusive of that fact as between **CONTRACTOR** and **COUNTY**.
25. **CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.
26. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.
27. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, **CONTRACTOR** hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which **CONTRACTOR** is obligated, which breach would have a material effect hereon.
28. **PRECEDENCE.** In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions contained in the numbered sections shall prevail over those in the Exhibits.
29. **SURVIVAL.** All provisions which by their nature are intended to survive the termination of this Agreement shall survive termination of this Agreement.

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

**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective on 7/1/2016.

**ATTEST:**

MONA MIYASATO, COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

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

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

**RECOMMENDED FOR APPROVAL**

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

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

**COUNTY OF SANTA BARBARA**

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

PETER ADAM, CHAIR BOARD OF  
SUPERVISORS

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

**CONTRACTOR**

FRED BERGE, M.D.

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

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

**APPROVED AS TO FORM:**

MICHAEL C. GHIZZONI  
COUNTY COUNSEL

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

Deputy County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

THEODORE A. FALLATI, CPA  
AUDITOR-CONTROLLER

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

Deputy

**APPROVED AS TO FORM:**

RAY AROMATORIO  
RISK MANAGEMENT

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

Risk Management

## **EXHIBIT A STATEMENT OF WORK**

**CONTRACTOR** shall serve as a Board-certified or Board-eligible psychiatrist for, and on behalf of, **COUNTY** under the general direction of the Director of Behavioral Wellness or designee, and will perform the following duties at Crisis and Recovery Emergency Services (CARES) South, Santa Barbara PEI/Early Detection and Intervention, and/or Santa Barbara New Heights, or as otherwise mutually agreed. Duties shall include but not be limited to:

1. Provide as needed all psychiatric services allowed under the scope of licensure as a licensed physician and surgeon in California, including Assessment/Evaluation, Collateral and Medication Support Services.
2. Perform diagnostic, suicide, Tarasoff, involuntary admission, medication, and other evaluations.
3. Prescribe and administer, as needed, psychiatric medication(s). Efficiently provide bridge orders for medications previously prescribed based on input from the clinic staff and, when necessary, patient's record.
4. Provide medication education for staff, clients, and families.
5. Participate in review, revision, and approval of assessments of clients.
6. Participate in the development, review, revision, and approval of treatment plans.
7. Provide consultation, training, and support of multi-disciplinary team members, as needed.
8. Participate in utilization review, medication monitoring, quality improvement protocols, and peer review.
9. Adhere to documentation and reporting requirements established by **COUNTY**.
10. Perform other relevant work within the scope of **CONTRACTOR'S** license.
11. The following summarizes the expectations of the psychiatrist.
  - A. Accept training on the use of Online Progress Notes (OLPN) and document patient contracts using the OLPM format;
  - B. Efficiently provide bridge orders for medications previously prescribed based on input from the clinic staff and, when necessary, patient's record;
  - C. New patient appointments shall include a client assessment, initial treatment plan, appropriate documentation and dictation of case within the time allotted:
    1. New adult patients over the age of 18 shall be scheduled for 1.5 hours;
    2. New child patients under the age of 18 shall be scheduled for 2 hours.
  - D. Follow-up appointments:
    1. Adults over the age of 18 shall be scheduled for 30 minute appointments.
    2. Children under the age of 18 shall be scheduled for 45 minutes.

## **EXHIBIT A STATEMENT OF WORK**

- E. Accommodate urgent or emergent concerns, walk-ins, medication refills, or other requests made by the Psychiatric Technicians or program manager in the event of a client “no-show”.

12. Maintain productivity levels of 70%, with a goal of 10-12 patients a day in office, and a goal of 6-9 patients a day for psychiatrists in the field.

### **13. DEFINITIONS:**

- A. **Assessment/Evaluation.** A clinical analysis of the history and current status of the individual's mental, emotional, or behavioral disorder. Assessment includes: diagnosis; use of testing procedures; face-to-face contact with the client; appraisal of the individual's social functioning such as living situation, daily activities, school activities, social support systems and health status. Cultural issues shall be addressed as appropriate.
- B. **Collateral.** Contact with one or more significant support persons in the life of the individual that may include consultation and training, to assist in better utilization of services and understanding mental illness or emotional disturbances. Collateral services include, but are not limited to, helping significant support persons to understand and address the individual's condition and involving the support persons in service planning and implementation of service plan(s).
- C. **Medication Support Services.** Those services including prescribing, administering, dispensing, and monitoring psychiatric medications or biologicals which are necessary to alleviate the symptoms of mental illness. These services may include evaluation of the need for medication, evaluation of the clinical effectiveness and side effects, the obtaining of informed consent, medication education and plan development related to the delivery of the services and/or assessment of the client. These services may only be provided by a licensed physician.

### **14. QUALIFICATIONS OF PROFESSIONALS.**

- A. Contractor must be Eligible to participate in Medicare, Medicaid and/or other federal health care programs; must possess a National Provider Identifier (NPI); must possess a valid Drug Enforcement Agency (DEA) license in the State of California, and where applicable will be required to meet the following criteria:
  - i. Submit a completed credentialing application and/or required documentation for credentialing as applicable;
  - ii. Possess a valid third-party billable provider certification (such as Medicare, Medi-Cal and/or private insurance) OR have submitted a completed billable provider application, along with the required documentation, in order to obtain the appropriate billable provider status;

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

**EXHIBIT A**  
**STATEMENT OF WORK**

15. **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. Services provided by unlicensed or uncertified persons shall not be compensated.
16. **CONTRACTOR** shall provide to Behavioral Wellness Services Quality Care Management (QCM) a current copy of **CONTRACTOR'S** Drug Enforcement Agency (DEA) certificate and physician's license.
17. **CONTRACTOR** agrees to provide services in accordance with all applicable provisions of the Lanterman-Petris-Short Act, Welfare and Institutions Code §§5000-5550, Title 9 of the California Code of Regulations, and Short-Doyle Medi-Cal policies pursuant to the requirements of the Community Mental Health Services plan and policy as administered by the **COUNTY'S** Director of Behavioral Wellness Services.
18. **CONTRACTOR** agrees to appear for testimony for court and jury trials as determined necessary by the Conservator for purposes of establishing or reestablishing Conservatorships for clients they have previously or are currently serving. Services provided by unlicensed or uncertified persons shall not be compensated.
19. **CONTRACTOR** agrees to store and dispense medications in compliance with all applicable State and Federal laws and regulations, as per California Code of Regulations Title 9, Chapter 11, Section 1810.435 (b)(2)&(3).

## EXHIBIT B

### CONTRACTOR ON PAYROLL Compensation

**COUNTY** shall pay **CONTRACTOR** for professional services pursuant to this Agreement upon biweekly submission by **CONTRACTOR** of a timesheet, and such payment shall be subject to deductions and withholding of state and federal taxes. In no event shall the compensation payable exceed the total sum of **\$180,180** without written amendment. This not to exceed amount includes the following:

- **\$180,180** for **1560** total paid hours by **CONTRACTOR** at a rate of **\$115.50** per hour. Total paid hours includes **120** hours of paid leave (must be at least 24 hours).
- \$0 for health insurance coverage should the **CONTRACTOR** be eligible and elect coverage.