

**MEMORANDUM OF UNDERSTANDING
BETWEEN CRESTWOOD BEHAVIORAL HEALTH, INC.
AND THE COUNTY OF SANTA BARBARA
REGARDING THE CHAMPION HEALING CENTER**

The County of Santa Barbara (the “COUNTY”) and Crestwood Behavioral Health, Inc. (“CBHI”) enter into this Memorandum of Understanding (“MOU”) effective March 10, 2020, regarding the real property at 303 South C Street, Lompoc, California, known as the Champion Healing Center (the “Property”).

RECITALS

- A. **WHEREAS**, CBHI is entering into a lease with the Lompoc Valley Medical Center (LVMC) of all or the majority of the Property (the “Lease”) to operate an 80-bed (+/-) Mental Health Rehabilitation Center (“MHRC”), licensed by the Department of Health Care Services, at the Property.
- B. **WHEREAS**, in addition to providing MHRC services to COUNTY’s clients (and others), CBHI will sublease approximately 3,000 square feet of the Property to the COUNTY.
- C. **WHEREAS**, certain tenant improvements (“TI’s”) will need to be performed for the Property to be licensed as an MHRC.
- D. **WHEREAS**, CBHI anticipates the Project to be complete and the facility operational by approximately November 1, 2020 (Exhibit A).
- E. **WHEREAS**, CBHI would not at this time, given its other ongoing projects, be willing to enter into the Lease and offer services to the COUNTY, pay for the TI’s, and pay other holding and start-up costs without financial assistance from others.
- F. **WHEREAS**, COUNTY needs MHRC beds and is willing to contribute funds towards a portion of the TI’s in order for MHRC beds to be available to COUNTY at the Property.
- G. **WHEREAS**, the parties agree that it is in the best interest of the COUNTY, its residents, and CBHI for COUNTY to provide a contribution to the TIs in order for CBHI to start up the MHRC at the Property.

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

1. DESIGNATED REPRESENTATIVE

Director of Behavioral Wellness at phone number (805) 805-681-5220 is the representative of COUNTY and will administer this MOU for and on behalf of COUNTY. Laurie Schrum at phone number 916-471-2247 is the authorized representative for CBHI. 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 MOU 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
County of Santa Barbara
Department of Behavioral Wellness
300 N. San Antonio Road
Santa Barbara, CA 93110
FAX: 805-681-5262

To CBHI: Laurie Schrum
General Counsel
Crestwood Behavioral Health, Inc.
520 Capitol Mall, #800
Sacramento, CA 95814
Fax: 916-471-2212

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 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. TENANT IMPROVEMENTS

Subject to the requirements set forth herein, CBHI shall determine the necessary TI's to operate the Property as an MHRC, including but not limited to alterations needed to provide for locked ingress to and egress from the MHRC (the "Project").

4. CONTRIBUTION

COUNTY agrees to contribute up to One Million Dollars (\$1,000,000) to the TI's, as follows:

- a. CBHI shall provide a proposed budget (the "Budget") for the TI's to the COUNTY for its review and approval. If the Budget comes in at over One Million Dollars (\$1,000,000), CBHI shall be solely responsible for the costs over One Million Dollars (\$1,000,000) to complete the Project.

- b. CBHI has provided COUNTY with audited financial statements (including balance sheet, income statement and cash flow statement) for 2018.
- c. CBHI has provided COUNTY with a copy of the draft lease between CBHI and LVMC for the Property which CBHI represents is in a form substantially similar to the lease that CBHI and LVMC anticipate entering into.
- d. CBHI and the COUNTY shall each appoint a representative regarding the TI's. The representatives or their designees shall meet weekly (in person, by telephone, by video-conference, etc.) to review the status of the TI's, to review and agree upon any change orders, and to review and approve all bills for the TI's.
- e. After a bill is approved by the representatives of both CBHI and COUNTY, CBHI shall pay the bill. CBHI shall submit a summary of all such approved and paid bills to the COUNTY on a monthly basis, which summary shall include copies of the bills. COUNTY shall reimburse CBHI for all such approved and paid bills, not to exceed One Million Dollars (\$1,000,000), within fifteen (15) banking days after receipt of the invoice from CBHI. Each billing shall be true and accurate and based on the percentage of the Project completion as of the date of billing. The amount COUNTY reimburses CBHI for the TI's is referred to herein as the "Contribution".
- f. If a bill is not approved by both representatives, the parties shall work together to seek to resolve the issue. The parties acknowledge and agree that bills which are within the Budget shall, generally speaking, be approved by the parties and paid.
- g. The Contribution shall not exceed One Million Dollars (\$1,000,000).
- h. The Contribution will be reserved for the TIs until December 31, 2020. The parties agree that the COUNTY shall not be required to continue to reserve or reimburse any unused portion of the Contribution that has not been paid by the COUNTY as reimbursement by December 31, 2020.
- i. CBHI shall provide monthly reports on the progress of the construction of the Project and estimated date of substantial completion and occupancy. If it is anticipated that the first admission/opening date will be delayed for more than 30 days, CBHI shall immediately notify the Designated Representative and provide an updated timeline for Project completion and opening.

5. CONTRIBUTION REPAYMENT

- a. CBHI shall reduce the base rate it charges to COUNTY pursuant to Section 5.c.iii below by \$21 per bed/per day ("ppd") until CBHI has reimbursed the COUNTY for the Contribution. For example, if the Contribution totaled \$999,600, CBHI would charge the reduce rate for 47,600 ppd's (47,600 x \$21 = \$999,600). In this example, the rate reduction would last approximately four (4) years, if COUNTY were to occupy

32 beds per day. The parties acknowledge that the specific payback period will vary, depending on COUNTY's exact occupancy. CBHI will provide a report showing the status of the repayment on a quarterly basis.

- b. The parties will amend their existing contract or enter into a new contract for services ("Service Contract"), subject to final approval of the Board of Supervisors, for COUNTY to occupy at least thirty-two (32) beds at the MHRC. COUNTY acknowledges that it does not expect to occupy all beds in the MHRC and that CBHI is free to negotiate different rates with its other clients. CBHI agrees to work with COUNTY, subject to bed availability, if COUNTY wishes to occupy more than thirty-two (32) beds.
- c. The material terms of the Service Contract shall contain at least the following terms:
 - i. The initial term of the Service Contract shall be for 4 years, with an option to renew the service agreement for one additional 4-year period, and one subsequent option to renew for a 2-year period. If CBHI exercises its option to extend the lease of the Property, COUNTY shall have an additional option to extend the Service Contract by two (2) additional years, for a total extension period of eight (8) years ($4 + 2 + 2 = 8$).
 1. If CBHI has not repaid the Contribution in full by the end of the initial term of the Service Contract, the Service Contract shall automatically renew at the then-existing base rate and for a time period to cover the estimated remaining balance of CBHI's Contribution repayment obligation.
 2. CBHI may increase the rate by up to 3.5% each year commencing July 1, 2021; provided however, that . during the repayment period, the 3.5% increase shall be allocated to the paydown of the Contribution. By way of illustration, the paydown of the Contribution would be made at the rate of \$21 ppd through 7/1/2021, \$34.40 ppd through 7/1/2022, \$48.25 ppd through 7/1/2023 and \$62.60 through 7/1/2024, based on the average base rate of \$383.
 3. Once the Contribution is repaid in full, the rate shall automatically be adjusted to include the amount previously allocated to repayment of the Contribution. For example, assume the Contribution is repaid in full in May 2023. In this event, the \$48.25 that was previously allocated to the Contribution shall automatically be part of the rate

(based on the average base rate of \$383), effective as of the first ppd after the Contribution is repaid in full.

- ii. COUNTY shall be entitled to 32 MHRC beds at the Property. When non-COUNTY beds become available, CBHI agrees to work with the COUNTY in good faith to determine whether COUNTY shall contract for such beds at the County-agreed rate.
 - iii. CBHI will generally provide 3 levels of care for the MHRC beds at the Property. The base rates for these levels shall be \$425 ppd for the highest level of care; \$375 ppd for the middle level of care; and \$350 ppd for the lowest level of care (“COUNTY-agreed rate”) and then shall increase as provided in section 5.c.i.2., above. Additionally, CBHI will offer a specialized level of care as medically necessary for a patient. The parties will agree on a fair amount contingent on the special services required by a patient.
 - iv. CBHI shall continuously monitor patients to ensure that patients are being moved to a lower level of care as appropriate.
 - v. The COUNTY may terminate the Service Contract for non-appropriation of funds.
- d. Should the Project not be completed or should CBHI cease providing services to COUNTY before the Contribution is repaid in full, CBHI shall pay the remaining balance due as a single lump sum (i.e., the Contribution minus all reimbursements pursuant to section 5a, above) plus interest within ninety (90) days after cessation of the services.
- i. Interest shall be calculated using the most recently published COUNTY of Santa Barbara Treasury Pool Rate. Interest shall begin accruing from the date of the last Contribution payment made by COUNTY to CBHI under Section 4.e and continue through the date the repayment from CBHI is received by the COUNTY.
- e. CBHI shall reimburse COUNTY’s for its Contribution, subject to the reimbursement terms set forth in Section 5.d. upon written demand from COUNTY, under the following circumstances:
- i. There is no work on the Project for 90 days or more; or
 - ii. The Project is delayed for 120 days or more.

6. SUBLEASE

Prior to the TIs nearing completion, and subject to final approval of the Board of Supervisors or General Services Director if within her designated authority under the County Code, the parties will enter into a 4-year sublease the terms of which shall include at least the following:

- a. COUNTY shall have sole possession of approximately 3,000 square feet of the Property, identified in Exhibit B, at a base rate of \$1.78 /square foot (Base Rent) plus COUNTY's share of the actual costs of fire and extended coverage insurance and property taxes, if any, paid by CBHI in connection with its lease for the Property (insurance and property taxes are referred to as the "Charges"). The County's share of the Charges shall be based on a percentage equal to the County's leased space as a percentage of the total square footage leased by CBHI, calculated as 5.8%. The foregoing notwithstanding, the Charges shall not exceed \$0.50/square foot (the "Charges Cap").
- b. CBHI shall not charge COUNTY for any other costs, such as CAM fees or triple net charges in addition to the Base Rent and the Charges.
- c. COUNTY shall have one option to renew the sublease for an additional 4-year term, and a subsequent option to renew the sublease for an additional 2-year term. If CBHI exercises its option to extend the term of the master lease then COUNTY shall have an additional option to renew the sublease for another 2-years (for a total extended term of 8 additional years). The Base Rent shall not increase during any extended term; however, at each renewal, the Charges Cap may increase by a maximum of \$0.10/square foot. For example, if the County exercises its first option to renew, the Charges during that extended term shall not exceed \$0.60/square foot.
- d. COUNTY may terminate the sublease for non-appropriation of funds.

7. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that the parties (including any and all of its officers, agents, and employees), are independent of the other and shall perform all of its services under this MOU as an independent contractor and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the other. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CBHI shall perform its work and function. However, COUNTY shall retain the right to administer this MOU so as to verify that CBHI is performing its obligations in accordance with the terms and conditions hereof. CBHI 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. CBHI shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CBHI shall be solely responsible and save

COUNTY harmless from all matters relating to payment of CBHI's subcontractors, agents, and/or employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this MOU, CBHI may be providing services to others unrelated to the COUNTY or to this MOU.

8. PREVAILING WAGE RATE.

CBHI shall comply with the California Labor Code, including, but not limited to, the payment of prevailing wages when required in relation to the TI's. The general prevailing wage rates determined by the Director of Industrial Relations, for the county or counties in which the work is to be done, are on file at General Services, Capital Projects Office, 1105 Santa Barbara Street, Santa Barbara, CA 93101. Copies of these general prevailing wage rates shall be made available to any interested party on request. Changes, if any to the general prevailing wage rates will be available at the same location. The prevailing wage rates are also available from the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov/dlsr/pwd>. CBHI shall post applicable prevailing wage rates at each job site.

9. REGISTRATION

No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code § 1771.1(a)]; no contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5; and this Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

10. CONTRACTOR'S LICENSE

Contractors are required by law to be licensed and regulated by the Contractor's State License Board. Any questions concerning contractor licensing must be referred to the Registrar of the Contractor's State License Board at www.cslb.ca.gov.

11. BONDS

CBHI shall require the Contractor to procure and maintain a payment and a performance bond each of which shall be in an amount not less than one hundred percent (100%) of the Project Budget in a form acceptable to the COUNTY. Such bonds shall be in standard AIA form, and shall be issued by a surety company or companies rated "A" or better pursuant to current AM. Best Company ratings and listed in the United States Treasury Department's Circular 570. Such surety shall be an admitted surety in California.

12. WORKER'S COMPENSATION INSURANCE

CBHI certifies as to knowledge of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code. CBHI will comply with such provisions, and ensure that Contractors and subcontractors who perform the work on the Project comply with such provisions, before commencing the performance of the work of the Project.

13. DEBARMENT AND SUSPENSION

CBHI 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.

14. CONFLICT OF INTEREST

CBHI covenants that CBHI 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 MOU. CBHI further covenants that in the performance of this MOU, no person having any such interest shall be employed by CBHI. CBHI must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CBHI if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CBHI in writing.

15. NO PUBLICITY OR ENDORSEMENT

CBHI shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CBHI shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CBHI. CBHI shall not in any way contract on behalf of or in the name of COUNTY. CBHI 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.

16. RECORDS, AUDIT, AND REVIEW

CBHI shall keep such business records pursuant to this MOU as would be kept by a reasonably prudent practitioner of CBHI's profession and shall maintain such records for at least four (4) years following the termination of this MOU. 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 CBHI's regular business hours or upon reasonable notice. In addition, if this MOU exceeds ten thousand dollars (\$10,000.00), CBHI 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 MOU (Cal. Govt. Code Section 8546.7). CBHI 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 MOU, CBHI 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, CBHI shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

17. INDEMNIFICATION AND INSURANCE

- a. CBHI agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.
- b. CBHI agrees to require its contractor(s) performing work on the Project to agree to the indemnification and insurance provisions set forth in EXHIBIT D attached hereto and incorporated herein by reference.

18. NONDISCRIMINATION

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

19. NONEXCLUSIVE AGREEMENT

CBHI understands that this is not an exclusive MOU 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 CBHI as the COUNTY desires.

20. NON-ASSIGNMENT

Neither party shall assign, transfer or subcontract this MOU or any of its rights or obligations under this MOU without the prior written consent of the other party 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.

21. TERMINATION

- a. **By COUNTY.** COUNTY may, by written notice to CBHI, terminate this MOU in whole or in part for nonappropriation of funds or because of the failure of CBHI to fulfill the obligations herein.
 - i. **For Cause.** Should CBHI default in the performance of this MOU or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this MOU in whole or in part by written notice. Upon receipt of notice, CBHI 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 CBHI, unless the notice directs otherwise.
 - ii. **For Nonappropriation of Funds.** Notwithstanding any other provision of this MOU, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this MOU, then COUNTY will notify CBHI of such occurrence and COUNTY may terminate or suspend this MOU in whole or in part, with or without a prior notice period. Subsequent to termination

of this MOU under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.

- b. By CBHI. CBHI is seeking to obtain a decision from the City of Lompoc that the use of the Property as an MHRC falls under the existing Use Permit for the Property, or to obtain an amendment to the existing Use Permit to allow the use as an MHRC. If the City determines that the MHRC does not fall under the existing CUP, or if CBHI does not obtain such amendment during its due diligence period related to the Lease, or if the Lease is not entered into for any reason, this MOU shall be void and of no force and effect.
- c. Upon termination, CBHI 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 CBHI for or on behalf of COUNTY in performing this MOU, whether completed or in process, except such items as COUNTY may, by written permission, permit CBHI to retain. CBHI shall furnish to COUNTY such financial information as in the reasonable judgment of COUNTY is necessary to determine the reasonable costs of the TIs. In the event of a dispute as to the reasonable costs of the TIs, the matter shall be resolved by non-binding third party mediation. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

22. 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 MOU shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

23. TIME IS OF THE ESSENCE

Time is of the essence in this MOU and each covenant and term is a condition herein. CBHI agrees to use its best effort to complete the TIs in accordance with the proposed schedule attached hereto as Exhibit A. COUNTY acknowledges that certain time periods in Exhibit A, such as the time required for the issuance of permits, are beyond the control of CBHI.

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 MOU 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 MOU AND AMENDMENT

In conjunction with the matters considered herein, this MOU 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 MOU is intended to be legally binding upon the parties. This MOU may be altered, amended or modified only by an instrument in writing, executed by the parties to this MOU and by no other means. Each party waives their future right to claim, contest or assert that this MOU was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

26. BINDING MOU

Each Party agrees that the terms of this MOU are valid, legally binding on, and enforceable against the other Party.

27. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this MOU, 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 permitted assigns.

28. COMPLIANCE WITH LAW

CBHI 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 MOU. The judgment of any court of competent jurisdiction, or the admission of CBHI in any action or proceeding against CBHI, whether COUNTY is a party thereto or not, that CBHI has violated any such ordinance or statute, shall be conclusive of that fact as between CBHI and COUNTY.

29. CALIFORNIA LAW AND JURISDICTION

This MOU shall be governed by the laws of the State of California. Any litigation regarding this MOU 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.

30. EXECUTION OF COUNTERPARTS

This MOU 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.

31. AUTHORITY

All signatories and parties to this MOU warrant and represent that they have the power and authority to enter into this MOU 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 MOU have been fully complied with. Furthermore, by entering into this MOU, CBHI hereby warrants that it shall not have breached the terms or conditions of any other contract or MOU to which CBHI is obligated, which breach would have a material effect hereon.

32. SURVIVAL

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

33. PRECEDENCE

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

IN WITNESS WHEREOF, the **County of Santa Barbara** and **Crestwood Behavioral Health, Inc.** have executed this Memorandum of Understanding to be effective on the date executed by COUNTY.

ATTEST:
MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
GREGG HART, CHAIR
BOARD OF SUPERVISORS

Date: _____

Date: _____

APPROVED AS TO FORM:
JANETTE PELL, DIRECTOR
GENERAL SERVICES DEPARTMENT

CONTRACTOR:
CRESTWOOD BEHAVIORAL HEALTH, INC.

By: _____
Department Head

By: _____
Authorized Representative

Date: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, 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

Schedule

1170 Champion Healing Center

Standard Schedule			
		Duration (Calendar Days)	Notes
RFP Invitation-Begin Process	01/17/20	56	
Proposals Due	03/13/20		Hard bid proposals received
Notice to Proceed 1 Start Date	03/30/20	57	Executed Contract: Design begins
Design Complete	05/25/20		
Jurisdiction Permit Issuance	07/23/20	59	Duration may vary depending on planning dept reviews
Notice to Proceed 2 Start Date	07/23/20	91	Construction Begins
Construction, IT & FF&E	10/21/20		Construction Complete
License Obtained By	10/31/20	10	Date may vary
First Admissions/ Opening Date	11/01/20		
Total Project Days		273	

Exhibit C

Indemnification and Insurance Requirements

INDEMNIFICATION

CBHI 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 ("Claims"), 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. Notwithstanding the foregoing, CBHI's indemnification obligation does not apply to any Claim to the extent caused by the COUNTY's gross negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CBHI 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

CBHI 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 CBHI, his 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 CBHI 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.

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 CBHI 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 CBHI'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. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
3. **Waiver of Subrogation Rights** – CBHI hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CBHI may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CBHI 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.
4. **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 CBHI 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.
5. **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".
6. **Verification of Coverage** – CBHI 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 CBHI's obligation to provide them. CBHI 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.
7. **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.
8. **Subcontractors** – CBHI shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CBHI shall ensure that COUNTY is an additional insured on insurance required from subcontractors.

9. **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 CBHI must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
10. **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. CBHI 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.

Exhibit D

CBHI agrees that it will have its CONTRACTOR chosen to perform the services on the Project agree to the following terms:

INSURANCE

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

C. Minimum Scope and Limit 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), 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:** Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
5. **Contractors' Pollution Legal Liability and/or Asbestos Legal Liability:** (*if project involves environmental hazards*) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
6. **Builders Risk Insurance (Course of Construction):** insurance utilizing an "all Risk" (aka "Special" policy form) coverage form, with limits at least equal to the completed value of the project and no coinsurance penalty provisions. Coverage must also include soft costs, building ordinance or law, off site materials storage, property in transit, loss of materials and equipment at the job site and boiler and machinery if applicable.

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.

D. Other Insurance Provisions

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

1. **Additional Insured** – CBHI and 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. **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 two (2) 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 two (2) years after completion of contract work.