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**AGREEMENT FOR SERVICES**

**#432-PHD0304**



**NEW MORNING YOUTH AND FAMILY SERVICES, INC.**

**High Risk Youth Counseling**

**AMENDMENT I**

**THIS AMENDMENT to the AGREEMENT** made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and New Morning Youth & Family Services, Inc., a California Non Profit Public Benefit Corporation, qualified as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, whose principal place of business is 6765 Green Valley Road, Placerville, CA 95667 (hereinafter referred to as "Contractor");

**WITNESSETH**

**WHEREAS**, County desires to continue the services of a contractor to provide a prevention and intervention program for juveniles who have been identified as being at high risk of entering the juvenile justice system; and

**WHEREAS**, Contractor desires to continue providing to the County those services necessary to operate a prevention and intervention program for high risk youth and their families; and

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

**WHEREAS**, Parts of Title 9, California Administrative Code (and more particularly, Section 500 through Section 795) and California Welfare and Institutions Code Section 5600 et seq., provide a set of definitions, standards, procedures, and regulations by and pursuant to which County and Contractor lawfully may contract for such services;

**NOW, THEREFORE**, the parties do mutually promise, covenant and agree as follows:

**ARTICLE II** – TERM shall be replaced in its entirety with the following:

**ARTICLE II - TERM**

This Agreement shall become effective July 1, 2005 through June 30, 2007 unless earlier terminated pursuant to provisions of Article V herein.

**ARTICLE III** – COMPENSATION FOR SERVICES, Section A. Payment by County shall be replaced with the following:

**ARTICLE III - COMPENSATION FOR SERVICES**

**A. Payment by County:** For services provided herein, County agrees to pay Contractor monthly. Total payment for services rendered shall not exceed \$158,400 for the entire term of the Agreement, excluding any extension thereof. County shall pay Contractor \$6,600 at the beginning of each month upon receipt of appropriate invoice. Invoices for September, December, March and June of the fiscal year shall be accompanied by a quarterly report. Such report shall include, but not be limited to, the total number of persons requesting services of the Contractor, the number of persons served by the Contractor by each type of service provided, and the source of referrals for services received. All such payments are subject to audit by County at the end of the term of this Agreement.

In the sole discretion of the County, County may extend the contract under the terms and conditions set forth herein, from July 1, 2007 through September 30, 2007 for compensation in an amount not to exceed one-fourth of the annual contract maximum (\$19,800), or the percentage dictated by the El Dorado County Board of Supervisors for the next fiscal year's budget, whichever is less. This extension is dependent on the Board of Supervisors' adoption of a proposed budget that includes funding for these services per Article XI, Fiscal Considerations, below, and is intended to provide a continuity of service while the County budget process is being completed.

Notwithstanding the provisions under this Article, no payment shall be made to Contractor until the County Auditor/Controller, or his or her designee, ascertains that Contractor maintains financial records consistent with Article IV, herein.

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The parties do hereby agree that all other provisions of the Agreement are to remain in full force and effect and that this Agreement remains subject to early termination by County as set forth in the original document.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representative to execute this Agreement the day and year first below written.

**COUNTY OF EL DORADO**

By: James R. Sweeney  
James R. Sweeney, Chairman  
El Dorado County Board of Supervisors

Date: 6/27/06

ATTEST:  
Cindy Keck, Clerk

By: Cindy Keck Date: 6/27/06  
Deputy Clerk

**NEW MORNING YOUTH AND FAMILY SERVICES, INC.**

By: David Ashby  
David Ashby, Executive Director  
New Morning Youth & Family Services, Inc.  
A California 501c(3) corporation

Date: 6/3/06

**EXHIBIT A**

**EL DORADO COUNTY  
INTERVENTION SERVICES for HIGH RISK YOUTH AND FAMILIES**

July 1, 2005 - June 30, 2007

**PROVIDER:** **New Morning Youth & Family Services, Inc.**

**REQUIRED SERVICES:**

Provide prevention and intervention counseling to those youth and their families who have been identified as being at risk of becoming involved in the juvenile justice system, and to prevent future involvement in the juvenile justice system, Child Protective Services, and other related systems. Highest service priority will be given to referrals made by the Student Attendance Review Board (SARB), and the Children=s Resource Team (CRT). Highest service priority is defined as timely provision of services in accordance with a defined service plan. Prevention and intervention services consist of:

1. Providing case management for any SARB and CRT referral whose primary need is counseling.
2. Participating on the case management team when the case is assigned to another agency.
3. Assigning a representative to SARB - Western Slope.
4. Coordinating services based on interagency developed service plans.
5. Establishing protocols with other assigned agencies to ensure clients are appropriately referred and information is transferred.
6. Identifying criteria with partner agencies to help define youth=s chances for success as a consequence of receiving counseling services.

<b>TARGET NUMBER OF UNITS TO BE PROVIDED:</b>	931.764/ consecutive 12-month Period
<b>COST PER UNIT OF SERVICE:</b>	\$85.00/Staff Hour
<b>TOTAL NOT TO EXCEED</b>	<b>\$158,400</b>



**AGREEMENT FOR SERVICES**

*#432-PHD0304*

**NEW MORNING YOUTH AND FAMILY SERVICES, INC.**

**High Risk Youth Counseling**

**THIS AGREEMENT** made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and New Morning Youth & Family Services, Inc., a California Non Profit Public Benefit Corporation, qualified as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, whose principal place of business is 6765 Green Valley Road, Placerville, CA 95667 (hereinafter referred to as "Contractor");

**WITNESSETH**

**WHEREAS**, County desires to obtain the services of a contractor to provide a prevention and intervention program for juveniles who have been identified as being at high risk of entering the juvenile justice system; and

**WHEREAS**, Contractor desires to provide to the County those services necessary to operate a prevention and intervention program for high risk youth and their families; and

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

**WHEREAS**, Parts of Title 9, California Administrative Code (and more particularly, Section 500 through Section 795) and California Welfare and Institutions Code Section 5600 et seq., provide a set of definitions, standards, procedures, and regulations by and pursuant to which County and Contractor lawfully may contract for such services;

**NOW, THEREFORE**, the parties do mutually promise, covenant and agree as follows:

## **ARTICLE I - SCOPE OF SERVICES**

**A. Description of Services:** Contractor agrees to provide the services described in Exhibit "A", attached hereto and incorporated herein (the "Services") to youth and their families who have been identified as high risk, pursuant to the terms of this Agreement. In providing the Services, all of Contractor's personnel shall meet all applicable requirements set forth in Title 9, California Administrative Code Sections 622-630, inclusive, California Welfare and Institutions Code Section 5600 et seq., and any amendments thereto.

**B. Direction and Supervision:** The Services shall be provided by Contractor under the general supervision of the Director of Public Health Services of County (the "Director"). The Director shall specify the kind, quality, and amount of Contractor's service and criteria for determining the persons to be served. The Director or his or her designee shall monitor the Services; and no new services, either through expansion or program change, nor any reductions of the services, shall occur without the written approval of the Director.

**C. Client Eligibility:** The Services shall be rendered to youth and their families without discrimination on the basis of race, color, religion, national origin, sex, sexual preference, marital status, disability, or ancestry. Each person receiving the Services shall be deemed a "client" for purposes of this Agreement.

## **ARTICLE II - TERM**

This Agreement shall become effective July 1, 2005 through June 30, 2006 unless earlier terminated pursuant to provisions of Article V herein.

## **ARTICLE III - COMPENSATION FOR SERVICES**

**A. Payment by County:** For services provided herein, County agrees to pay Contractor monthly. Total payment for services rendered shall not exceed \$79,200 for the entire term of the Agreement, excluding any extension thereof. County shall pay Contractor \$6,600 at the beginning of each month upon receipt of appropriate invoice. Invoices for September, December, March and June of the fiscal year shall be accompanied by a quarterly report. Such report shall include, but not be limited to, the total number of persons requesting services of the Contractor, the number of persons served by the Contractor by each type of service provided, and the source of referrals for services received. All such payments are subject to audit by County at the end of the term of this Agreement.

In the sole discretion of the County, County may extend the contract under the terms and conditions set forth herein, from July 1, 2006 through September 30, 2006 for compensation in an amount not to exceed one-fourth of the annual contract maximum (\$19,800), or the percentage dictated by the El Dorado County Board of Supervisors for the next fiscal year's budget, whichever is less. This extension is dependent on the Board of Supervisors' adoption of a proposed budget that includes funding for these services per Article XI, Fiscal Considerations, below, and is intended to provide a continuity of service while the County budget process is being completed.

Notwithstanding the provisions under this Article, no payment shall be made to Contractor until the County Auditor/Controller, or his or her designee, ascertains that Contractor maintains financial records consistent with Article IV, herein.

**B. Client Fees:**

1. The fee for the Services provided to clients shall be determined by Contractor under the general direction of the Director. Such fees shall be based upon a client's and his/her parents' or guardians' ability to pay for the Services.
2. It is agreed by the parties that no client shall be denied services because of inability to pay.
3. Contractor shall be solely responsible for billing and collecting payment from all third-party revenue sources, in accordance with the terms and conditions herein.
4. Contractor shall not charge fees to clients which exceed the actual cost of Contractor to provide the Services.

**ARTICLE IV -AUDIT AND RECORD KEEPING REQUIREMENTS**

Because the compensation paid to Contractor pursuant to this Agreement is comprised of County General Funds, Contractor hereby agrees to comply with the following requirements regarding books, records and audits:

- A. County shall obtain an annual, single, county wide, financial and compliance audit of County General Funds which may include Contractor funds. If, as a result of the audit, it is determined by County that there is material noncompliance in Contractor's internal structure, the Contractor must submit to County a corrective action plan within fifteen (15) days of the audit.
- B. Contractor shall maintain client records, books, documents, records and other evidence, accounting procedures and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses, all of which will be deemed to constitute "records" for purposes of this section. Such records shall clearly reflect the cost and scope of the Services provided to each client.
- C. Contractor's facility, office (or such parts thereof as may be engaged in the performance of this Agreement) and its records shall be subject at all reasonable times to inspection and audit reproduction by County.
- D. Contractor shall preserve and make available its records for a period of five (5) years from the date of final payment under this Agreement, and for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by either of the following:



1. If this Agreement is terminated or partially terminated, all of the records relating to work terminated shall: a) be preserved and made available for a period of five (5) years from the date of termination; or b) at the sole option of the County, immediately become the property of the County and shall be delivered by Contractor to the County.
  2. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the five (5) year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five (5) year period, whichever is later.
- E. In addition to those records described above, Contractor shall keep all statistical data and records required by the Director on forms provided by the Director. These records shall be available for inspection as required by the Director.
- F. Contractor shall include in all subcontracts entered into with third parties in order to facilitate the providing of the Services hereunder, the following clause:
- "(Name of vendor or subcontractor) agrees to maintain and preserve, until four (4) years after termination of Contractor's agreement with the County of El Dorado, pertinent books, documents, papers and records of (name of vendor or subcontractor) related to this (purchase order or subcontract) and to permit the County to have access to, to examine and to audit any of such pertinent records."*
- G. All Contractor's funding records related to this Agreement shall be subject to audit by County at any time during the term of this Agreement, and for a period that extends through any required records retention period, should it be requested by County's Auditor/Controller. In the event that Contractor has more than one funding contract with County, Contractor shall maintain an individual schedule of expenses for each County contract, such that can be reconciled to an audit. If Contractor receives in excess of \$500,000 in total funding from County in any one fiscal year, Contractor must have an independent/individual audit of each County contract.

#### **ARTICLE V - REVENUE AND BUDGET SURPLUS**

If, as a result of the annual audit performed pursuant to Section 6 above, it is determined that Contractor has not expended all of the compensation provided for in this Agreement but has, in fact, remaining excess funds, Contractor agrees that such excess funds shall be refunded to the County within thirty (30) days following the audit.

#### **ARTICLE VI - AMENDMENT**

This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

## **ARTICLE VII - INDEPENDENT CONTRACTOR/LIABILITY**

Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

## **ARTICLE VIII - FISCAL CONSIDERATIONS**

The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

## **ARTICLE IX - DEFAULT, TERMINATION, AND CANCELLATION**

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended in the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date in which the extension of time of to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired.

- B. **Bankruptcy:** This Agreement, at the option of either party, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor or County.
- C. **Ceasing Performance:** County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. **Termination or Cancellation without Cause:** Either party may terminate this Agreement for any reason in whole or in part upon written notice thirty (30) calendar days prior to its effect. If such prior termination is effected by County, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, and for such other services, which parties may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination by County, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

**ARTICLE X - NOTICE TO PARTIES**

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices shall be in duplicate and addressed to parties as follows: Notices to County:

**EL DORADO COUNTY PUBLIC HEALTH DEPARTMENT**  
931 SPRING STREET  
PLACERVILLE, CA 95667  
ATTN: GAYLE ERBE-HAMLIN, DIRECTOR

or to such other location as County directs.

Notices to Contractor:

**NEW MORNING YOUTH & FAMILY SERVICES, INC.**  
6765 GREEN VALLEY ROAD  
PLACERVILLE, CA 95667  
ATTN: DAVID ASHBY, EXECUTIVE DIRECTOR

or to such other location as Contractor directs.

## **ARTICLE XI – INDEMNITY**

To the fullest extent of the law, Contractor shall defend, indemnify, and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Contractor's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Contractor, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the County, its officers and employees, or as expressly provided by statute. This duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

## **ARTICLE XII - INSURANCE**

Contractor shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Worker's Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than \$500,000.00 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.
- D. Professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to the Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Risk Management Division and Contractor agrees that no work or services shall be performed prior to the giving of

such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County, and;
  - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all liability policies except worker's compensation and professional liability insurance policies.
- I. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with the Risk Management Division, as essential for protection of the County.

### **ARTICLE XIII - INTEREST OF PUBLIC OFFICIAL**

No official or employee of County who exercises any functions or responsibilities in review or

approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

**ARTICLE XIV - INTEREST OF CONTRACTOR**

Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

**ARTICLE XV - CALIFORNIA RESIDENCY (FORM 590)**

All independent Consultants providing services to the County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. The Consultant will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Consultant during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

**ARTICLE XVI - TAXPAYER IDENTIFICATION / FORM W9**

All individuals/sole proprietors, corporations, partnerships, associations, organizations or public entities providing services to the County shall provide a fully executed Department of the Treasury Internal Revenue Service Form W-9, "Request for Taxpayer Identification Number and Certification".

**ARTICLE XVII - VENUE**

Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California. Contractor waives any removal rights it might have under Code of Civil Procedure Section 394.

**ARTICLE XVIII – HIPAA**

Under this Agreement, Contractor will provide services to County, and in conjunction with the provision of such services, certain Protected Health Information ("PHI") may be made available to Contractor for the purposes of carrying out its obligations. Contractor agrees to comply with all the terms and conditions of Exhibit "B", HIPAA Business Associate Agreement, attached hereto and made by reference a part hereof, regarding the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder.

## **ARTICLE XIX - ASSIGNMENT AND DELEGATION**

Contractor shall not assign, delegate, or employ subcontractors or consultants to carry out the responsibilities pursuant to this Agreement without the prior written consent of County. All subcontractors or consultants approved by County shall be subject to the same terms and conditions applicable to Contractor under this Agreement, and Contractor shall be liable for the subcontractor's or consultant's acts and/or omissions. All agreements between Contractor and subcontractors or consultants for services or responsibilities pursuant to this Agreement shall be in writing and shall be provided to County for approval prior to signature of parties.

## **ARTICLE XX - ADMINISTRATOR**

The El Dorado County Officer or employee with responsibility for administering this Agreement is Gayle Erbe-Hamlin, Director of Public Health Services, or successor.

## **ARTICLE XXI - AUTHORIZED SIGNATURES**

The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

## **ARTICLE XXII - PARTIAL INVALIDITY**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

## **ARTICLE XXIII - REFERENCES TO LAWS AND RULES**

All references contained in this Agreement and written instructions or communications of the Administrator to the California Administrative Code, Welfare and Institutions Code, Health & Safety Code, and to other laws, regulations, and policies as they exist at the time, and thereafter as such laws, regulations, and policies may from time to time be changed by appropriate authority during the term of this Agreement, are agreed to be binding on both parties of this Agreement.

## **ARTICLE XXIV – NONDISCRIMINATION IN EMPLOYMENT**

- A. Contractor certifies compliance with California Government Code, Section 12990 and California Code of Regulations, Title II, Division 4, Chapter 5, in matters related to the development, implementation and maintenance of a nondiscrimination program. The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age (over 40), sex or sexual orientation. Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

Contractor will ensure that qualified applicants have equal opportunity for employment, and that qualified employees have equal opportunity during employment. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, career development opportunities, and selection for training, including apprenticeship.

- B. Contractor agrees to post, in conspicuous places, notices available to all employees and applicants for employment setting forth the provisions of the Equal Opportunity Act [42 USC 2000(e)] in conformance with Federal Executive Order No. 11246. Contractor agrees to comply with the provisions of the Rehabilitation Act of 1973 (29 USC 794).
- C. Contractor shall give written Notice of its obligations under this clause to labor organizations with which it has a collective bargaining or other agreement.
- D. In the event of non-compliance with Subparagraph A or B of this Article or as otherwise provided by State and Federal law, this Agreement may be canceled, terminated or suspended in whole or in part and Contractor may be declared ineligible for further contracts involving State or federal funds.

#### **ARTICLE XXV – NONDISCRIMINATION IN SERVICES, BENEFITS AND FACILITIES**

- A. Contractor certifies under the laws of the State of California that the Contractor shall not unlawfully discriminate in the provision of services because of race, color, creed, national origin, sex, age, or physical or mental disability. Contractor shall make its program accessible to persons with disabilities. Contractor shall operate in accordance with State and federal law and in accordance with Title VI of the Civil Rights Act of 1964 [42 USC 2000(d)]; Age Discrimination Act of 1975 (42 USC 6101); Rehabilitation Act of 1973 (29 USC 794); Education Amendments of 1972 (20 USC 1681); Americans with Disabilities Act of 1990 (42 USC 12132); Title 45, Code of Federal Regulations, Part 84; provisions of the Fair Employment and Housing Act (Government Code Section 129000 et seq.); and regulations promulgated thereunder (Title 2, CCR, Section 7285.0 et seq.); Title 2, Division 2, Article 9.5 of the California Government Code, commencing with Section 11135; and Title 9, Division 4, Chapter 6 of the California Code of Regulations, commencing with Section 10800.
- B. For the purpose of this Agreement, discrimination on the basis of race, color, creed, national origin, sex, age, or physical or mental disability includes, but is not limited to, the following: denying a participant any service or access to service, or providing a benefit to a participant which is different, or is provided in a different manner or at a different time from that provided to other participants under this contract; subjecting a participant to segregation or separate treatment in any matter related to the receipt of any service; restricting a participant in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and/or treating a participant differently from others in determining whether the participant satisfied any admission, enrollment, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service or benefit.



C. Complaint Process – Contractor shall furnish all clients with written notice of their right to file complaints alleging discrimination in the delivery of services. This notice shall inform clients that:

1. Complaints may be filed with the County Administrator or the U.S. Department of Health and Human Services, Office of Civil Rights.
2. In those cases where the client’s complaint is filed initially with the Office of Civil Rights (Office), the Office may proceed to investigate the complaint, or the Office may request that the County Administrator conduct the investigation.
3. Within the time limits procedurally imposed, the complainant shall be notified in writing as to the findings regarding the alleged discrimination and, if not satisfied with the decision, may file an appeal with the Office.

D. Accessibility – If the Contractor employs more than 15 staff members, it must:

1. Maintain an internal complaint resolution procedure that includes due process standards and provides for the prompt and equitable resolution of complaints alleging any action or omission that transgresses federal or state accessibility laws or regulations.
2. Designate at least one employee as the person responsible for: 1) implementing an internal accessibility program to ensure persons with disabilities have access to the Contractor’s facility; and 2) receiving and resolving complaints that allege violation of federal or state accessibility laws or regulations.

E. Retaliation - Neither Contractor, nor its employees or agents shall intimidate, coerce or take adverse action against any person for the purpose of interfering with rights secured by federal or State laws, or because such person has filed a complaint, certified, assisted or otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to enforce rights secured by federal or State law.

#### **ARTICLE XXVI – NOTIFICATION OF DEATH**

CONTRACTOR shall notify the Administrator of this Agreement, within a reasonable time, upon becoming aware of the death of any person served hereunder.

#### **ARTICLE XXVII – ENTIRE AGREEMENT**

This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representative to execute this Agreement the day and year first below written.

**COUNTY OF EL DORADO**

By: Charlie Paine  
Charlie Paine, Chairman  
El Dorado County Board of Supervisors

Date: 6/14/05

**ATTEST:**  
Cindy Keck, Clerk

By: [Signature] Date: 6/14/05  
Deputy Clerk

**NEW MORNING YOUTH AND FAMILY SERVICES, INC.**

By: [Signature]  
David Ashby, Executive Director  
New Morning Youth & Family Services, Inc.  
A California 501c(3) corporation

Date: 5/2/05

**EXHIBIT A**

**EL DORADO COUNTY  
INTERVENTION SERVICES for HIGH RISK YOUTH AND FAMILIES**

July 1, 2005 - June 30, 2006

**PROVIDER:** New Morning Youth & Family Services, Inc.

**REQUIRED SERVICES:**

Provide prevention and intervention counseling to those youth and their families who have been identified as being at risk of becoming involved in the juvenile justice system, and to prevent future involvement in the juvenile justice system, Child Protective Services, and other related systems. Highest service priority will be given to referrals made by the Student Attendance Review Board (SARB), and the Children's Resource Team (CRT). Highest service priority is defined as timely provision of services in accordance with a defined service plan. Prevention and intervention services consist of:

1. Providing case management for any SARB and CRT referral whose primary need is counseling.
2. Participating on the case management team when the case is assigned to another agency.
3. Assigning a representative to SARB - Western Slope.
4. Coordinating services based on interagency developed service plans.
5. Establishing protocols with other assigned agencies to ensure clients are appropriately referred and information is transferred.
6. Identifying criteria with partner agencies to help define youth's chances for success as a consequence of receiving counseling services.

<b>TARGET NUMBER OF UNITS TO BE PROVIDED:</b>	931.764/ Contract Period
<b>COST PER UNIT OF SERVICE:</b>	\$85.00/Staff Hour
<b>TOTAL NOT TO EXCEED</b>	<b>\$79,200</b>

**EXHIBIT B**  
**HIPAA Business Associate Agreement**

This HIPAA Business Associate Agreement is made part of the base contract (“Underlying Agreement”) to which it is attached, as of the date of commencement of the term of the Underlying Agreement (the “Effective Date”).

RECITALS

WHEREAS, County and Contractor entered into the Underlying Agreement pursuant to which Contractor provides services to County, and in conjunction with the provision of such services, certain Protected Health Information (“PHI”) and Electronic Protected Health Information (“EPHI”) may be made available to Contractor for the purposes of carrying out its obligations under the Underlying Agreement; and

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act, Pub. L. No. 104-161 of 1996 (“HIPAA”), more specifically the regulations found at Title 45, CFR, Parts 160 - 164 (the “Privacy and Security Rule”), as may be amended from time to time, which are applicable to the protection of any disclosure of PHI pursuant to the Underlying Agreement; and

WHEREAS, County is a Covered Entity, as defined in the Privacy Rule; and

WHEREAS, Contractor, when a recipient of PHI from County, is a Business Associate as defined in the Privacy Rule; and

WHEREAS, “Individual” shall have the same meaning as the term “individual” in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.202(g); and

WHEREAS, the parties agree that any disclosure or use of PHI or EPHI be in compliance with the Privacy and Security Rule or other applicable law;

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

1. Definitions. Unless otherwise provided in this Business Associate Agreement, capitalized terms shall have the same meanings as set forth in the Privacy Rule, as may be amended from time to time.
2. Scope of Use and Disclosure by Contractor of County Disclosed PHI
  - A. Contractor shall be permitted to use PHI disclosed to it by the County:
    - (1) on behalf of the County, or to provide services to the County for the purposes contained herein, if such use or disclosure would not violate the Privacy Rule if done by the County, or the minimum necessary policies and procedures of the County
    - (2) as necessary to perform any and all of its obligations under the Underlying Agreement.
  - B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Business Associate Agreement or Required by Law, Contractor may:
    - (1) use the PHI in its possession for its proper management and administration and to fulfill any legal obligations.
    - (2) disclose the PHI in its possession to a third party for the purpose of

Contractor's proper management and administration or to fulfill any legal responsibilities of Contractor. Contractor may disclose PHI as necessary for Contractor's operations only if:

- (a) The disclosure is Required by Law; or
  - (b) Contractor obtains written assurances from any person or organization to which Contractor will disclose such PHI that the person or organization will:
    - (i) hold such PHI in confidence and use or further disclose it only for the purpose of which Contractor disclosed it to the third party, or as Required by Law; and,
    - (ii) the third party will notify Contractor of any instances of which it becomes aware in which the confidentiality of the information has been breached.
  - (3) aggregate the PHI and/or aggregate the PHI with that of other data for the purpose of providing County with data analyses related to the Underlying Agreement, or any other purpose, financial or otherwise, as requested by County.
  - (4) not disclose PHI disclosed to Contractor by County not authorized by the Underlying Agreement or this Business Associate Agreement without patient authorization or de-identification of the PHI as authorized in writing by County.
  - (5) de-identify any and all PHI of County received by Contractor under this Business Associate Agreement provided that the de-identification conforms to the requirements of the Privacy Rule, 45 CFR and does not preclude timely payment and/or claims processing and receipt.
- C. Contractor agrees that it will neither use nor disclose PHI it receives from County, or from another business associate of County, except as permitted or required by this Business Associate Agreement, or as Required by Law, or as otherwise permitted by law.

3. Obligations of Contractor. In connection with its use of PHI disclosed by County to Contractor, Contractor agrees to:
- A. Use or disclose PHI only as permitted or required by this Business Associate Agreement or as Required by Law.
  - B. Use reasonable and appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Business Associate Agreement.
  - C. To the extent practicable, mitigate any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of this Business Associate Agreement.
  - D. Report to County any use or disclosure of PHI not provided for by this Business Associate Agreement of which Contractor becomes aware.
  - E. Require sub-contractors or agents to whom Contractor provides PHI to agree to the same restrictions and conditions that apply to Contractor pursuant to this Business Associate Agreement.

- F. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use or disclosure of PHI created or received for or from the County.
  - G. Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the County and to follow generally accepted system security principles as required in final rule 45 CFR Parts 160-164.
  - H. Contractor will report any security incident of which it becomes aware to the County. Security incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations. This does not include trivial incidents that occur on a daily basis, such as scans or “pings”.
  - I. Obtain and maintain knowledge of the applicable laws and regulations related to HIPAA, as may be amended from time to time.
  - J. May use PHI to report violations of law to appropriate Federal and State Authorities, consistent with § 164.502(j) (1).
4. PHI Access, Amendment and Disclosure Accounting. Contractor agrees to:
- A. Provide access, at the request of County, within five (5) days, to PHI in a Designated Record Set, to the County, or to an Individual as directed by the County.
  - B. To make any amendment(s) to PHI in a Designated Record Set that the County directs or agrees to at the request of County or an Individual within sixty (60) days of the request of County.
  - C. To assist the County in meeting its disclosure accounting under HIPAA:
    - (1) Contractor agrees to document such disclosures of PHI and information related to such disclosures as would be required for the County to respond to a request by an Individual for an accounting of disclosures of PHI.
    - (2) Contractor agrees to provide to County or an Individual, within sixty (60) days, information collected in accordance with this section to permit the County to respond to a request by an Individual for an accounting of disclosures of PHI.
    - (3) Contractor shall have available for the County the information required by this section for the six (6) years preceding the County’s request for information (except the Contractor need have no information for disclosures occurring before April 14, 2003).
  - D. Make available to the County, or to the Secretary of Health and Human Services, Contractor’s internal practices, books and records relating to the use of and disclosure of PHI for purposes of determining Contractor’s compliance with the Privacy Rule, subject to any applicable legal restrictions.
  - E. Within thirty (30) days of receiving a written request from County, make available any and all information necessary for County to make an accounting of disclosures of County PHI by Contractor.
  - F. Within sixty (60) days of receiving a written request from County,

incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule in the event that the PHI in Contractor's possession constitutes a Designated Record Set.

- G. Not make any disclosure of PHI that County would be prohibited from making.

5. Obligations of County.

- A. County agrees that it will make its best efforts to promptly notify Contractor in writing of any restrictions on the use and disclosure of PHI agreed to by County that may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.
- B. County agrees that it will make its best efforts to promptly notify Contractor in writing of any changes in, or revocation of, permission by any Individual to use or disclose PHI, if such changes or revocation may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.
- C. County agrees that it make it's best efforts to promptly notify Contractor in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect Contractor's use of disclosure of PHI.
- D. County shall not request Contractor to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by County, except as may be expressly permitted by the Privacy Rule.
- E. County will obtain any authorizations necessary for the use or disclosure of PHI, so that Contractor can perform its obligations under this Business Associate Agreement and/or the Underlying Agreement.

6. Term and Termination.

- A. Term – this Business Associate Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement, as provided therein when all PHI provided by the County to Contractor, or created or received by Contractor on behalf of the County, is destroyed or returned to the County, or, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- B. Termination for Cause. Upon the County's knowledge of a material breach by the Contractor, the County shall either:
  - (1) Provide an opportunity for the Contractor to cure the breach or end the violation and terminate this Agreement if the Contractor does not cure the breach or end the violation within the time specified by the County.
  - (2) Immediately terminate this Agreement if the Contractor has breached a material term of this Agreement and cure is not possible; or
  - (3) If neither termination nor cures are feasible, the County shall report the violation to the Secretary.

C. Effect of Termination.

- (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, the Contractor shall return or destroy all PHI received from the County, created or received by the Contractor on behalf of the County. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Contractor. Contractor shall retain no copies of the PHI.
- (2) In the event that the Contractor determines that returning or destroying the PHI is infeasible, Contractor shall provide to the County notification of the conditions that make return or destruction infeasible. Upon {negotiated terms} that return or destruction of PHI is infeasible, Contractor shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Contractor maintains such PHI.

7. HIPAA Business Associate Indemnity

Contractor shall indemnify and hold harmless all Agencies, Districts, Special Districts and Departments of the County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of Contractor, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Business Associate Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever including fines, penalties or any other costs and resulting from any reason whatsoever arising from the performance of Contractor, its officers, agents, employees, subcontractors, agents or representatives from this Business Associate Agreement. Contractor shall defend, at its sole expense, all costs and fees including but not limited to attorney fees, cost of investigation, defense and settlements or awards all Agencies, Districts, Special Districts and Departments of the County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives in any claim or action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by Contractor, Contractor shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Contractor's indemnification to County as set forth herein. Contractor's obligation to defend, indemnify and hold harmless County shall be subject to County having given Contractor written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Contractor's expense, for the defense or settlement thereof. Contractor's obligation hereunder shall be



satisfied when Contractor has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.

The specified insurance limits required in the Underlying Agreement of this Business Associate Agreement shall in no way limit or circumscribe Contractor's obligations to indemnify and hold harmless the County herein from third party claims arising from the issues of this Business Associate Agreement.

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the Contractor from indemnifying the County to the fullest extent allowed by law.

In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Business Associate Agreement, this indemnification shall only apply to the subject issues included within this Business Associate Agreement.

8. Amendment – the parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.
9. Survival – the respective rights and obligations of this Business Associate Agreement shall survive the termination or expiration of this Business Associate Agreement.
10. Regulatory References – a reference in this Business Associate Agreement to a section in the Privacy Rule means the section as in effect or as amended.
11. Conflicts – any ambiguity in this Business Associate Agreement and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, 45 CFR, and HIPAA generally.