

ORIGINAL

AGREEMENT FOR SERVICES #409-O1110

THIS AGREEMENT made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as “County”) and Barton Healthcare Systems, Inc. a California Corporation, duly qualified to conduct business in the State of California, whose principal place of business address is 2170 South Avenue, South Lake Tahoe 96150, (Mailing: P.O. Box 9578, South Lake Tahoe, CA 96158) and whose Agent for Service of Process is Richard Derby, 2170 South Avenue, South Lake Tahoe, CA 96150; (hereinafter referred to as “Hospital”);

RECITALS

WHEREAS, Hospital desires to have a Medi-Cal/County Medical Services Program (Medi-Cal CMSP) Eligibility Worker (hereinafter referred to as “EW”) assigned to Hospital for purposes of processing Medi-Cal/CMSP and companion Food Stamps applications; and

WHEREAS, County Department of Human Services, Social Services Division (hereinafter referred to as “DHS”) is willing to provide the EW for the purposes of processing Medi-Cal/CMSP and companion Food Stamps applications; and

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

NOW, THEREFORE, County and Hospital mutually agree as follows:

ARTICLE I

Scope of Services:

1. Hospital shall:
 - A. Provide the Eligibility Worker (EW) with adequate office space that shall protect both EW and client confidentiality and safety;
 - B. Provide EW with ergonomically appropriate furniture, if needed, necessary to conduct business, i.e., a desk, chair, telephone, locking filing cabinet, guest chairs, shelving units, storage;
 - C. Provide EW with access to a copy machine and a fax machine;
 - D. Provide janitorial services for the office space assigned to EW;
 - E. Provide EW with access to employee restrooms and break rooms;
 - F. Schedule break times for the EW in accordance with mutually agreed upon written policy;
 - G. Provide EW with the opportunity to attend off-site DHS meetings and trainings;
 - H. Provide the County with access to Hospital facility for purposes of installing and maintaining computer and communications equipment necessary to the EW's job;
 - I. Provide accessible parking spaces that are compliant with the Americans with Disabilities Act of 1990 as amended, for clients and EW;
 - J. Provide proper clerical support for EW staff assigned to the Hospital;
 - K. Agree to assist EW staff to the extent reasonable and appropriate with special intake processing circumstances, including language differences, access to patients and information relevant to the intake process. Hospital agrees, at Hospital's cost, to make either personnel or access to accredited telephone translation services available for interpreter services;
 - L. Provide training and orientation of EW staff related to Hospital environment and special precautions related to infectious diseases and ongoing legislation regarding patients' rights or other mandated requirements; such updates to mandated requirements shall be provided in written form to the DHS Program Manager;
 - M. With DHS assistance, use its best effort to cooperatively assure that all material required to establish program eligibility is complete and obtained in a timely manner.
 - N. Designate a liaison to communicate with DHS on an "as needed" basis;
 - O. Provide comments or concerns regarding the EW's performance from the designated Hospital liaison. Communication shall be via telephone or written communication to the designated DHS supervisor or program manager. Comments are intended to provide a prompt update of the successful or unsuccessful resolution of all performance issues raised regarding the EW. In absence of any written or verbal concerns, DHS shall assume performance of EW is satisfactory;
 - P. Determine which patients the Hospital desires to have referred to EW staff for application processing;
 - Q. Provide insurance in accordance with the County's established standards;
 - R. Complete any DHS-provided invoice forms necessary to ensure proper claiming and reimbursement associated with costs for EW staff assigned to Hospital; and
 - S. Maintain books, records, documents and other evidence pertaining to costs and expenses of the Agreement.

2. Department of Human Services shall:

- A. Be the appointing authority and employer of EW staff, responsible for EW selection, hiring, training, supervision and termination, and will provide the EW with the appropriate experience to handle the tasks herein required;
- B. As appointing authority, assume responsibility for maintaining Workers' Compensation or a self-insurance program, and will provide coverage for all other appropriate benefits covering EW assigned to Hospital under the Agreement;
- C. Assign EW staff to serve Hospital, during mutually acceptable times and days, which include mutually agreed upon scheduled break times;
- D. Provide information to the designated Hospital liaison immediately of the EW's planned or unplanned absences. DHS shall make a good faith effort to provide full time coverage during any planned or unplanned absence of the EW in duration of more than five (5) working days. During absences in duration of five (5) working days or less, DHS shall make a good faith effort to provide EW staff in emergency situations on an as-needed basis. DHS shall provide designated Hospital liaison, via telephone or e-mail, information regarding the need for the EW to attend training or meetings no less than 48 hours from the time of anticipated absence from the Hospital;
- E. Provide training for Hospital clerical staff to provide Medi-Cal/CMSF and Food Stamp verification as required by law;
- F. Provide assurance that EW staff assigned to the Hospital conform to the reasonable rules and regulations of the Hospital applicable to all Hospital employees, including Health Insurance Portability and Accountability Act (HIPAA) regulations;
- G. Use its best efforts to assure that case processing and final eligibility determinations are accomplished in a timely manner and in accordance with applicable statutes and regulations including, but not limited to, regulations concerning the processing of applications for comatose patients and patients who are minors. Situations with special circumstances will be accommodated on a case-by-case basis;
- H. Assure that processed intake cases conform to state-established processing timeframes;
- I. Provide supervisory support and guidance to resolve any concerns arising out of EW performance of tasks herein required; and
- J. Provide designated Hospital liaison with annual lists of approved County holidays.

Both parties agree to cooperate in providing information and documents which may be required to meet requirements of regulatory agencies to which either party may be accountable;

ARTICLE II

Term: This Agreement shall become effective when fully executed by both parties hereto and shall cover the period of July 1, 2011 through June 30, 2014.

ARTICLE III

Compensation for Services: Hospital shall reimburse DHS on a quarterly basis in arrears. The cost per quarter may fluctuate, depending on the number of pay periods in the quarter. Payment shall be made within thirty (30) days following receipt of itemized invoices in triplicate from DHS in an amount equal to DHS cost of performance hereunder. The current rate shall not exceed \$78,765.00 annually for a full time equivalent EW for a total not to exceed \$236,295.00 for the three-year term. This amount is subject to change, dependent upon the salary and benefits of the Eligibility Worker assigned and/or any cost-of-living adjustment that may be necessary.

Hospital may be relieved of the payment of any consideration to DHS should DHS fail to perform the covenants herein contained at the time and in the manner herein provided. The cost to Hospital shall be deducted from any sum due DHS under this Agreement, and the balance, if any, shall be paid DHS upon demand.

ARTICLE IV

Special Considerations: DHS acknowledges that applicable portions of the Social Security Act and the Omnibus Budget Reconciliation Act of 1980 require that this Agreement include a provision requiring DHS to allow Secretary of the Department of Health and Human Services (HHS) and other authorized federal officials, access to DHS books and records as they relate to services provided pursuant to this Agreement (in accordance with Section 1861 (v) (1) (I) of the Social Security Act). Hospital shall allow State and Federal Auditors access to records made or maintained under this Agreement.

Any information regarding the beneficiaries referred to DHS is confidential and shall not be made public except as provided by Chapter 5 (commencing with Section 10850) of Part 2 of Division 9 of the Welfare and Institutions Code and any regulations adopted pursuant thereto. Hospital agrees to and shall require employees of Hospital to comply with the provisions of the cited Code and regulations.

ARTICLE V

Liability for Hospital Negligence: Hospital shall be liable for its own negligence and negligent acts of its employees. County shall not be charged with responsibility of preventing risk to Hospital or its employees.

ARTICLE VI

Mandated Reporter Requirements: Hospital acknowledges and agrees to comply with mandated reporter requirements pursuant to the provisions of Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the California Penal Code, also known as The Child Abuse and Neglect Reporting Act.

ARTICLE VII

Confidentiality and Information Security Provisions: Hospital shall comply with applicable laws and regulations, including but not limited to The Code of Federal Regulations, Title CFR45, parts 160-164, regarding the confidentiality and security of personal identifiable information (PII).

Personal Identifiable Information (PII) means any information that identifies, relates to, describes, or is capable of being associated with a particular individual, including, but not limited to, his or her name, signature, social security number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, or any other financial information.

A. Permitted Uses and Disclosures of PII by Hospital.

- (1) Permitted Uses and Disclosures. Hospital shall develop and maintain an information privacy and security program that includes the implementation of administrative, technical and physical safeguards appropriate to the size and complexity of Hospital's operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately protect the confidentiality, integrity, and availability of the PII that it creates, receives, maintains, or transmits; and prevent the use or disclosure of PII other than as provided for in this Agreement. Except as otherwise provided in this Agreement, Hospital, may use or disclose PII to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate Federal or State laws or regulations.
- (2) Specific Uses and Disclosures provisions. Except as otherwise indicated in the Agreement, Hospital shall:
 - (a) Use and disclose PII for the proper management and administration of Hospital or to carry out the legal responsibilities of Hospital, provided that such use and disclosures are permitted by law; and
 - (b) Take all reasonable steps to destroy, or arrange for the destruction of a customer's records within its custody or control containing personal information which is no longer to be retained by Hospital by (1) shredding, (2) erasing or (3) otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

B. Responsibilities of Hospital.

- (1) Hospital agrees to safeguards:
 - (a) To prevent use or disclosure of PII other than as provided for by this Agreement. Hospital shall provide County with information concerning such safeguards as County may reasonably request from time to time; and
 - (b) Hospital shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only; and
 - (c) Hospital shall implement appropriate authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), Hospital shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-86 and SANS Institute Password Protection Policy.
- (2) Hospital shall implement the following security controls on each server, workstation, or portable (e.g. laptop computer) computing device that processes or stores confidential, personal, or sensitive data:
 - (a) Network based firewall and/or personal firewall; and
 - (b) Continuously updated anti-virus software; and
 - (c) Patch-management process including installation of all operating system/software vendor security patches.

- (3) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Hospital of a use or disclosure of PII by Hospital or its subcontractors in violation of the requirements of this Agreement.
- (4) **Agents and Subcontractors of Hospital.** To ensure that any agent, including a subcontractor to which Hospital provides PII received from County, or created or received by Hospital, for the purposes of this Agreement shall comply with the same restrictions and conditions that apply through this Agreement to Hospital with respect to such information.
- (5) **Notification of Electronic Breach or Improper Disclosure.** During the term of this Agreement, Hospital shall notify County immediately upon discovery of any breach of PII and/or data, where the information and/or data are reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to County Privacy Officer, within two business days of discovery, at (530) 621-5852. Hospital shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Hospital shall investigate such breach and provide a written report of the investigation to County Privacy Officer, postmarked within thirty (30) working days of the discovery of the breach.

ARTICLE VIII

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Hospital attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Hospital relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation".

ARTICLE IX

Compliance with All Federal, State and Local Laws and Regulations: Hospital shall comply with all Federal, State and local laws including, but not limited to, the Americans with Disabilities Act (ADA) of 1990 (42 USC 12101 et. seq.) and California Government Code Sections 11135-11139.5, and all regulations, requirements, and directives pertinent to its operations. Hospital shall abide by manuals, directives and other guidance issued by the State of California. All appropriate manuals and updates shall be available for review or reference by Hospital from the County Department of Human Services.

Hospital shall further comply with all applicable laws relating to wages and hours of employment and occupational safety and to fire, safety and health and sanitation regulations. Such laws shall include, but not be limited to, the Copeland "Anti-Kickback" Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Clean Air Act and amendments, the Clean Water Act and amendments, and the Federal Water Pollution Control Act.

Hospital further warrants that it has all necessary licenses, permits, notices, approvals, certificates, waivers and exemptions necessary for the provision of services hereunder and required by the laws and regulations of the United States, the State of California, the County of El Dorado, and all other appropriate governmental agencies and shall maintain these throughout the term of the Agreement.

ARTICLE X

Medi-Cal Screening: If applicable, Hospital shall screen 100% of referred clients for Medi-Cal eligibility. The screening shall include, but not be limited, to:

1. Verifying that the Medi-Cal beneficiary is eligible to receive Medi-Cal services at the time the client is referred for service; and
2. Verifying El Dorado County as the responsible County; and
3. Assessing for valid full scope aid codes; and
4. Monthly verification of client eligibility during the time the services are provided to the Client.

ARTICLE XI

Changes to Agreement: 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. Either party may terminate this Agreement for any reason upon thirty (30) days written notice to the other party.

ARTICLE XII

Hospital to County: It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Hospital shall act as contractor only to County and shall not act as contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Hospital's responsibilities to County during term hereof.

ARTICLE XIII

Assignment and Delegation: Hospital is engaged by County for its unique qualifications and skills as well as those of its personnel. Hospital shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

ARTICLE XIV

Independent Hospital/Liability: Hospital 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. Hospital 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.

Hospital 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 Hospital or its employees.

ARTICLE XV

Accounting Systems and Financial Records: Hospital shall be required to establish and maintain accounting systems and financial records that accurately account for and reflect all federal funds received, including all matching funds from the State, County and any other local or private organizations. Hospital's records shall reflect the expenditure and accounting of said funds in accordance with all State laws and procedures for expending and accounting for all funds and receivables, as well as meet the financial management standards in 45 Code of Federal Regulations (CFR), Part 92, and all current revisions of OMB Circular A-122. More particularly, contractors are responsible for complying with OMB Circular A-122 and 45 CFR, Part 92, and the allowability of the costs covered therein. Hospital must obtain written approval from DHS Executive Management prior to the expenditure of any "special" or unusual costs in order to avoid possible disallowances or disputes based on any potential unreasonableness or unallowability of expenditures as detailed under the specific cost principles of OMB Circular A-122. In order to obtain the most current regulations, the user should consult not only the latest version of the CFR, but also the LSA issued in the current month. The *Federal Register* home page (<http://www.gpoaccess.gov/nara/index.html>) offers links to both the *Federal Register* and the CFR. An electronic CFR (e-CFR) is available at <http://www.gpoaccess.gov/ecfr/>. The e-CFR is an unofficial editorial compilation of CFR material and *Federal Register* amendments. It is a current, daily updated version of the CFR; however, it is not an official legal edition of the CFR. Please note that on-line versions of the CFR may not be the most current available.

ARTICLE XVI

Annual Audit: Pursuant to the Single Audit Act and the Office of Management and Budget (OMB) Circular A-133, any entity that receives a total of \$500,000 or more per year in federal funds for the purposes of carrying out federal programs must complete an annual audit. The funding threshold is aggregate funds from all sources. Hospital shall mail a certified copy of said completed annual audit to County's Department of Human Services at the address listed in Agreement's "Notice to Parties" article within thirty (30) days of Hospital's receipt of same. All adverse audit findings must be documented and included with completed annual audit. Certified evidence of correction(s) of adverse audit findings shall be provided to County at the DHS address listed in agreement's "Notice to Parties" article. A complete and current copy of OMB A-133 is available at <http://www.whitehouse.gov/omb/rewrite/circulars/a133/a133.html>

ARTICLE XVII

Lobbying Certification: The Hospital, by signing this Agreement, hereby certifies to the best of its knowledge and belief, that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the Hospital, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the

entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Hospital shall complete and submit Standard Form SF-LLL, OMB Number 0348-0046 "Disclosure of Lobbying Activities" in accordance with its instructions. A copy of Form SF-LLL can be downloaded and completed at <http://www.whitehouse.gov/omb/grants/sfillin.pdf>.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE XVIII

Debarment and Suspension Certification: By signing this agreement, the Hospital agrees to comply with applicable Federal suspension and debarment regulations including, but not limited to 45 CFR 76 and Hospital further certifies to the best of its knowledge and belief that it and its principals or affiliates or any sub-contractor utilized under the agreement:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- B. Have not within a three year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in the above Paragraph B;
- D. Have not within a three (3)-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default;
- E. Shall not knowingly enter in to any lower tier or subrecipient covered transaction with any person(s) who are proposed for debarment under Federal regulations (i.e., 48 CFR part 9, subpart 9.4) or are debarred, suspended, declared ineligible or voluntarily excluded from participation in such transactions, unless authorized by the State; and
- F. Shall include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or subrecipient covered transactions in accordance with 45 C.F.R. Part 76.

If the Hospital is unable to certify to any of the statements in this certification, the Hospital shall submit an explanation in writing to County.

The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.

If the Hospital knowingly violates this certification, in addition to other remedies available to the Federal and State Governments, County may immediately terminate this Agreement for cause or default.

ARTICLE XIX

Fingerprinting. Pursuant to California Penal Code §11105.3(a), “Notwithstanding any other law, a human resource agency or an employer may request from the Department of Justice records of all convictions or any arrest pending adjudication involving the offenses specified in subdivision (1) of §15660 of the Welfare and Institutions Code of a person who applies for a license, employment, or volunteer position, in which he or she would have supervisory or disciplinary power over a minor or any person under his or her care.” Therefore, Hospital warrants that its employees, subcontractors, assignees, volunteers and any other persons who, while providing services under this Agreement, have or may have supervisory or disciplinary power over any person or minor under his or her care, have been fingerprinted in order to determine whether they have a criminal history that would compromise the safety of persons or minors with whom they have contact in the course of provision of services under this Agreement. Hospital further warrants that said employees, subcontractors, assignees, volunteers and other persons have been cleared by Hospital to perform the services described in this Agreement. All fingerprinting services shall be at Hospital’s sole expense. More specifically, Hospital agrees that:

1. Each applicant for paid or volunteer employment by Hospital who shall or may have a supervisory or disciplinary power over a minor or any person under his or her care shall be fingerprinted in order to determine whether they have a criminal history, which would compromise the safety of such minor, or person(s) under his or her care. All fingerprinting shall be at Hospital’s sole expense.
2. The fingerprinting process as set forth above shall be completed and the results of the process shall be obtained before any of the Hospital’s employees, subcontractors, assignees or volunteers are assigned or permitted to work with any minor or person referred to Hospital by County. Alternatively, the Hospital may set a hire date prior to obtaining fingerprinting results contingent on the applicant certifying that: (1) his or her employment application truthfully and completely discloses whether he or she has ever been convicted of a felony or misdemeanor or been on parole or probation and (2) that the applicant understands that a background check shall be conducted and that he or she shall be immediately dismissed from employment if he or she has failed to provide information regarding convictions, has provided incomplete information regarding convictions, has omitted information regarding convictions or if the fingerprinting results reveal any conviction incompatible with employment with Hospital.
3. Hospital shall maintain, and make immediately available to County upon request, a written fingerprint certification for each employee, volunteer or applicant for paid or volunteer employment for whom fingerprinting is required as detailed above. Such certification shall state that the individual has been fingerprinted, shall provide the date of said fingerprinting and shall state whether or not the process has disclosed any criminal history of the individual, which may compromise the safety of minors or other persons with whom that individual has contact. Fingerprint information received from Department of Justice (DOJ) by Hospital shall be retained or disposed of pursuant to current DOJ directives.

ARTICLE XX

Nondiscrimination: Assurance of compliance with the El Dorado County Department of Human Services nondiscrimination in state and federally assisted programs requirements as follows:

Hospital hereby agrees that it will comply with Title VI and VII of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 as amended; the Food Stamp Act of 1977, as amended, and in particular Section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code Section 51 et seq., as amended; California Government Code Section 11135-11139.5, as amended; California Government Code Section 12940 (c), (h) (1), (i), and (j); California Government Code Section 4450; Title 22, California Code of Regulations Section 98000 – 98413; Title 24 of the California Code of Regulations, Section 3105A(e); the Dymally-Alatorre Bilingual Services Act (California Government Code Section 7290-7299.8); Section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable federal and state laws, as well as their implementing regulations [including 45 Code of Federal Regulations (CFR) Parts 80, 84 and 91, 7 CFR Part 15, and 28 CFR Part 42], by ensuring that employment practices and the administration of public assistance and social services programs are nondiscriminatory, to the effect that no person shall, because of ethnic group identification, age, sex, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed, or political belief, be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving federal or state financial assistance; and hereby give assurance that it will immediately take any measures necessary to effectuate this Agreement.

This assurance is given in consideration of and for the purpose of obtaining any and all federal and state assistance; and the Hospital hereby gives assurance that administrative methods/procedures which have the effect of subjecting individuals to discrimination or defeating the objectives of the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Chapter 21, will be prohibited.

By accepting this assurance, the Hospital agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of the aforementioned laws, rules and regulations, and permit authorized CDSS and/or federal government personnel, during normal working hours, to review such records, books, and accounts as needed to ascertain compliance. If there are any violations of this assurance, CDSS shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code Section 10605, or Government Code section 11135-11139.5, or any other laws, or the issue may be referred to the appropriate federal agency for further compliance action and enforcement of this assurance.

This assurance is binding on the Hospital directly or through contract, license, or other provider services, as long as it receives federal or state assistance.

ARTICLE XXI

Changes to Agreement: 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 XXII

HIPAA Compliance: All data, together with any knowledge otherwise acquired by Consultant during the performance of services provided pursuant to this Agreement, shall be treated by Consultant and Consultant's staff as confidential information. Consultant shall not disclose or use, directly or indirectly, at any time, any such confidential information. If the Consultant receives any individually identifiable health information ("Protected Health Information" or "PHI"), the Consultant shall maintain the security and confidentiality of such PHI as required by applicable laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder.

ARTICLE XXIII

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 XXIV

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 at 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 on which the extension of time 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 the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Hospital.
- C. Ceasing Performance: County may terminate this Agreement in the event Hospital 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: County may terminate this Agreement in whole or in part seven (7) calendar days upon written notice by County for any reason. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Hospital, and for such other services, which County 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, Hospital 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 XXV

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 to County shall be in duplicate and addressed as follows:

COUNTY OF EL DORADO
DEPARTMENT OF HUMAN SERVICES
3057 BRIW ROAD, SUITE A
PLACERVILLE, CA 95667
ATTN: DEANN OSBORN, STAFF SERVICES ANALYST II

or to such other location as the County directs with a copy to

COUNTY OF EL DORADO
CHIEF ADMINISTRATIVE OFFICE
PROCUREMENT AND CONTRACTS DIVISION
330 FAIR LANE
PLACERVILLE, CA 95667
ATTN: TERRI DALY, PURCHASING AGENT

Notices to Hospital shall be addressed as follows:

BARTON HEALTHCARE SYSTEMS, INC.
P.O. BOX 9578
SOUTH LAKE TAHOE, CA 96158
ATTN: JAMES G. HENDERSON, CORPORATE DIRECTOR/SUPPLY CHAIN
MANAGEMENT

or to such other location as the Hospital directs

ARTICLE XXVI

Indemnity: To the fullest extent of the law, the Hospital 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 Hospital's services, operations or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Hospital, sub-contractor(s) and employee(s) or any of these, except for the sole or active negligence of the County, its officers and employees, or as expressly prescribed by statute. This duty of Hospital to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

ARTICLE XXVII

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

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Hospital 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 \$1,000,000.00 is required in the event motor vehicles are used by Hospital in the performance of the Agreement.
- D. In the event Hospital is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 per occurrence. For the purposes of this Agreement, professional liability is required.
- E. Hospital 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 shall 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. Hospital 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, Hospital 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 the 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 Hospital agrees that no work or services shall be performed prior to the giving of such approval. In the event Hospital 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 shall 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 workers' compensation and professional liability insurance policies.

- I. Hospital's insurance coverage shall be primary insurance as respects County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees or volunteers shall be excess of Hospital's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. Either:
 - 1. Insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or
 - 2. Hospital 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 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. Hospital's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Hospital cannot provide an occurrence policy, Hospital 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 the protection of County.

ARTICLE XXVIII

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 Hospital 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 XXIX

Interest of Hospital: Hospital covenants that Hospital 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. Hospital further covenants that in the performance of this Agreement no person having any such interest shall be employed by Hospital.

ARTICLE XXX

California Residency (Form 590): All independent contractors providing services to the County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certify that they have a permanent place of business in California. The Hospital 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 Hospital during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

ARTICLE XXXI

Taxpayer Identification Number (Form W-9): All independent contractors or Corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

ARTICLE XXXII

County Business License: It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

ARTICLE XXXIII

Administrator: The County Officer or employee with responsibility for administering this Agreement is DeAnn Osborn, Staff Services Analyst II, or successor.

ARTICLE XXXIV

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 XXXV

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 XXXVI

Venue: Any dispute resolution action rising 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. Hospital waives any removal rights it might have under Code of Civil Procedure Section 394.

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ARTICLE XXXVII


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.

REQUESTING CONTRACT ADMINISTRATOR CONCURRENCE:

By: 
DeAnn Osborn, Staff Services Analyst II
Department of Human Services

Dated: April 11, 2011

REQUESTING DEPARTMENT HEAD CONCURRENCE:

By: 
Daniel Nielson, M.P.A., Director
Department of Human Services

Dated: 4-12-2011

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Services #409-O1110 on the dates indicated below.

-- COUNTY OF EL DORADO --

Date: _____

By: _____

Chair
Board of Supervisors
"County"

ATTEST:
Suzanne Allen de Sanchez
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Date: _____

-- HOSPITAL --

BARTON HEALTHCARE SYSTEMS, INC.
A CALIFORNIA CORPORATION

By: *James G. Henderson*
James G. Henderson, Corporate Director/
Supply Chain Management
Barton Healthcare Systems, Inc
"Hospital"

Date: *5/11/11*