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AGREEMENT #759-S0711

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THIS AGREEMENT, made and entered into between Nevada County, hereinafter called "COUNTY" and El Dorado County, Department of Mental Health, which operates a Psychiatric Health Facility, hereinafter called "CONTRACTOR."

**WITNESSETH**

**WHEREAS**, in accordance with the current Mental Health legislation, COUNTY has been charged with the responsibility of providing mental health services for mentally disordered persons, and;

**WHEREAS**, CONTRACTOR has the facilities and the ability to be certified and staffed to provide psychiatric inpatient hospital care and maintenance of mentally disordered persons,

**NOW, THEREFORE**, it is hereby mutually agreed by and between the parties hereto as follows:

**1. Description of Services:** CONTRACTOR shall provide psychiatric inpatient services to residents of COUNTY over the age of eighteen (18) who are eligible for Mental Health Services under the California Community Mental Health Services Law, in adherence with Title XIX of the Social Security Act, 42 USC in conformance with all applicable Federal and State statutes. Services will be provided, with prior authorization by COUNTY, to eligible persons who may be either on voluntary or involuntary status. The length of stay of each mentally disordered person shall be determined by the CONTRACTOR'S professional staff, in coordination with COUNTY as indicated in Section 8 herein. CONTRACTOR may, but is not required to, provide necessary emergency and non-elective ancillary medical services as part of the inpatient treatment services.

If services required by COUNTY patients exceed CONTRACTOR'S capabilities, CONTRACTOR may utilize other facilities as mutually agreed upon by the Directors of Mental Health of COUNTY and CONTRACTOR.

It is recognized that to make efficient use of any inpatient facility, the provision of aftercare services is of extreme importance. To this end, it is the responsibility of COUNTY to maintain adequate aftercare services, such that efficient referral to these services may be made part of discharge planning of patients, including transportation, if necessary. COUNTY staff will work with CONTRACTOR'S staff prior to a patient's discharge to effect an appropriate placement of patients discharged from the CONTRACTOR'S facility. COUNTY will be responsible for aftercare and placement of all patients (LPS and non-LPS [Lanterman-Petris-Short Act]) covered by this Agreement upon their discharge from CONTRACTOR'S facility or any subsequent placement facility.

It is understood and agreed that only mentally disordered persons are to be admitted pursuant to this Agreement and that inebriates and persons not mentally disordered, in the opinion of CONTRACTOR, are specifically excluded herefrom.

**2. Direction:** Such services shall be provided by CONTRACTOR for COUNTY patients under the general direction of the COUNTY Mental Health Director or his/her designee. It is the responsibility of CONTRACTOR to assure that the inpatient psychiatric services rendered to patients admitted to the CONTRACTOR'S facility are consistent with State and Federal laws. Documentation of services provided by CONTRACTOR for each patient of COUNTY shall be available for review by COUNTY upon request.

**3. Patient Eligibility:** Services under this Agreement shall be rendered without regard to race, color, sex, religion, national origin, ancestry, disability, age (over 40), physical or mental status as specified in applicable Federal and State laws. The specific admission procedures shall be mutually agreed upon by the respective Directors of Mental Health. Residency in COUNTY will be the basic requirement for eligibility for these services. Transients referred by COUNTY in an emergency or involuntary status may also be serviced through this Agreement.

**4. Payments:** In consideration for CONTRACTOR providing inpatient psychiatric services to COUNTY patients pursuant to this Agreement, COUNTY shall pay CONTRACTOR at the rate of \$580.00 per patient/per day or portion of day, including the day of admission and excluding the day of discharge, all inclusive of: all hospital costs including room and board, medications, psychiatrist's time, laboratory work and court costs. CONTRACTOR will bill the patient's insurance when applicable and apply such insurance payments to COUNTY cost. For patients who are COUNTY Medi-Cal beneficiaries, the COUNTY will be charged the SCHEDULE OF MAXIMUM ALLOWANCES (SMA) rate less a credit for payment due from Medi-Cal Federal Financial Participation (FFP).

In addition, COUNTY shall reimburse CONTRACTOR for transportation costs incurred by CONTRACTOR in implementing a discharge plan authorized by COUNTY. In consideration for CONTRACTOR providing transportation for COUNTY patients, COUNTY shall pay CONTRACTOR \$14.00 per hour/per driver plus mileage expense, up to a maximum of \$750.00 during the term of the Agreement. Mileage expense, when requested to travel to meet contractual obligations, shall be reimbursed at the non-taxable per mile rate permitted by the Internal Revenue Service (IRS) as promulgated from time-to-time in IRS regulations, currently \$0.485 per mile for calendar year 2007.

If it is determined, either before or after admission to CONTRACTOR'S facility, that the patient has Medi-Cal eligibility in another County, it is the responsibility of the COUNTY to notify the County of financial responsibility that one of its Medi-Cal beneficiaries has been admitted to the CONTRACTOR'S facility. It is also the responsibility of the COUNTY to provide documentation of authorization from the responsible County to the CONTRACTOR, who will then bill the County of responsibility, or other insurance when applicable, for reimbursement.

Unless COUNTY has provided CONTRACTOR with documentation of authorization from another responsible County, COUNTY is responsible for payment in full for CONTRACTOR'S services regardless of a patient's County Medi-Cal eligibility or other insurance.

The CONTRACTOR will not bill a patient directly for any services, such as unmet share of cost, deductibles, etc.

There is no administrative day rate. Payment is due from COUNTY for each day of inpatient psychiatric service, excluding day of discharge.

**5. Cost Limitations and Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire June 30, 2009. The maximum amount payable under this Agreement is \$20,000.00 for the two (2) year period.

**6. Admissions Procedure:** CONTRACTOR agrees that only those patients which COUNTY specifically refers to CONTRACTOR for said program shall receive services. COUNTY's request for admission constitutes authorization.

COUNTY understands and accepts that patients are encouraged and permitted to sign in as a voluntary commitment when possible pursuant to Welfare & Institutions Code Section 5250(c).

All persons referred for admission to CONTRACTOR'S facility will be medically cleared for admission to a non-medical facility prior to admission to CONTRACTOR'S facility. This medical clearance will be provided directly or indirectly and payment arranged or provided by COUNTY. Criteria and requirements for medical clearance will be determined by CONTRACTOR. All transportation costs to and from CONTRACTOR'S facility for medical care and clearance are the responsibility of COUNTY.

CONTRACTOR shall not be required to accept referrals for treatment of individuals housed in jail or other penal institutions.

**7. Coordination of Care:** COUNTY and CONTRACTOR agree that both of their clinical staffs will fully communicate and cooperate in the development of treatment, planning, determination of length of stay, and readiness for discharge, and in the process of planned transition back into the community and to this end may freely exchange patient information as a unitary treatment program. COUNTY agrees to facilitate timely aftercare placement for patients ready for discharge.



**8. Patient Records:** Active patient records shall be maintained at the nursing station. Closed records shall be maintained at a designated site, mutually acceptable to both parties.

Patient records shall be retained for ten (10) years or any further period that is required by law and until all Federal or State audits are complete and exceptions resolved for this Agreement. Upon request, CONTRACTOR shall make these records available to authorized representatives of COUNTY, the State of California, and the United States Government. For the first two (2) years after last discharge, the records shall be stored on site. For the last eight (8) years after last discharge, all records shall be stored in a secured off-site area that is readily accessible to COUNTY personnel.

CONTRACTOR employees shall have access within twenty-four hours to all appropriate COUNTY patient records requested by CONTRACTOR staff. Off-site records shall be available within 24 hours of request, weekends and holidays excluded. COUNTY staff shall have access to all records for any hospital patient who is under COUNTY'S care.

**9. Right to Audit:** CONTRACTOR agrees to extend to the COUNTY Mental Health Director or designee, or auditors designated by COUNTY or State, the right to review and investigate records, programs or procedures, at a mutually agreeable time as regards patients as well as the overall operation of CONTRACTOR'S programs.

**10. Status of Contractor:** The parties hereto agree that CONTRACTOR, its agents and employees, including its professional and non-professional staff, in the performance of the Agreement shall act in an independent capacity and not as officers, employees or agents of COUNTY. The CONTRACTOR shall furnish all personnel, supplies, equipment, furniture, insurance, utilities, telephone, and quarters necessary for the performance of the Mental Health services to be provided by CONTRACTOR pursuant to the Agreement.

**11. Conflict of Interest:** CONTRACTOR warrants that it or its employees or their immediate families or Board of Supervisors or officers have no interest, including, but not limited to, other projects or independent contracts, and shall not acquire any interest, direct or indirect, which conflicts with the rendering of services under this Agreement.

CONTRACTOR agrees that no person having any such interest shall be employed or retained by CONTRACTOR while rendering services under this Agreement. Services rendered by CONTRACTOR'S associates or employees shall not relieve CONTRACTOR from personal responsibility under this Section.

CONTRACTOR has an affirmative duty to disclose to COUNTY in writing the name(s) of any person(s) who have an actual, potential or apparent conflict of interest.

**12. Indemnity:** COUNTY shall be responsible for damages caused by the acts or omissions of its officers, employees and agents occurring in the performance of this Agreement. CONTRACTOR shall be responsible for damages caused by the acts or omissions of its officers, employees and agents occurring in the performance of this Agreement. It is the intention of CONTRACTOR and COUNTY that the provisions of this Section be interpreted to impose on each party, responsibility for the acts of their respective officers, employees and agents. It is also the intention of CONTRACTOR and COUNTY that, where comparative negligence is determined to have been contributory, principles of comparative negligence will be followed and each party will bear the proportionate cost of any damages attributable to the negligence within thirty (30) days of receipt of any claim or lawsuit arising from this Agreement.

**13. Insurance:** CONTRACTOR is covered for its general liability, automobile liability, property, and workers' compensation liability through a self-insurance program, in conjunction with excess coverage through the California Association of Counties - Excess Insurance Authority. A certificate of coverage will be furnished to COUNTY upon request.

**14. Assignment:** This Agreement shall not be assigned by CONTRACTOR, either in whole or in part, without prior written consent of COUNTY. This Agreement and the terms and conditions hereof shall insure and be binding upon the successors and assigns of the parties hereto.

**15. Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that both CONTRACTOR and COUNTY are political subdivisions of the State of California. As such, both are 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'S and CONTRACTOR'S businesses, they 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, either party shall give notice of cancellation of the 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 and CONTRACTOR released from any further liability hereunder. In addition to the above, should the respective Boards of Supervisors, during the course of a given year, for financial reasons reduce or order a reduction in the budget for either COUNTY'S or CONTRACTOR'S departments for which services were contracted to be performed, pursuant to this Section, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

**16. 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 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 the Agreement unless the party giving notice so elects in subsequent written notice after the time to cure has expired.

**B. Ceasing Performance:**

COUNTY or CONTRACTOR may terminate this Agreement in the event either becomes unable to substantially perform any term or condition of this Agreement.

**C. Termination or Cancellation without Cause:**

Either party shall have the right to terminate this Agreement without cause; any such termination will be effective sixty (60) calendar days after written notice. In the event of cancellation by COUNTY or CONTRACTOR, CONTRACTOR shall be paid for all work performed and all reasonable allowable expenses incurred to date of cancellation.

This Agreement may be terminated by either party, if the State Department of Mental Health gives written notice stating that services provided are not in compliance with requirements of law or regulations, by giving twenty-one (21) days written notice to the other party.

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**17. 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 registered. Notices to CONTRACTOR shall be addressed as follows:

MARLENE HENSLEY, PHF PROGRAM MANAGER  
EL DORADO COUNTY DEPARTMENT OF MENTAL HEALTH  
935-B SPRING STREET  
PLACERVILLE, CA 95667

or to such other location as the CONTRACTOR directs.

MICHAEL HEGGARTY, DIRECTOR  
NEVADA COUNTY BEHAVIORAL HEALTH  
500 CROWN POINT CIRCLE, SUITE 120  
GRASS VALLEY, CA 95945

or to such other location as the COUNTY directs.

**18. Rules and Laws:** CONTRACTOR and COUNTY agree to comply with all applicable provisions of Title 9 of the California Code of Regulations, entitled Community Mental Health Services under the Bronzan-McCorquodale Act, Sections 500-868, the Welfare and Institutions Code Division 5, entitled Community Mental Health Services, Sections 5000-5803, California Code of Regulations Title 22, regulations of the State Department of Mental Health, as amended, Local Mental Health Authority, and other applicable laws, regulations and policies governing the provisions of public Mental Health services.

**19. Administrator:** The employee designated to administer this agreement for El Dorado County Mental Health Department is Marlene Hensley, PHF Program Manager.

**20. HIPAA Compliance:** CONTRACTOR agrees, to the extent required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), including but not limited to Title 42, United States Code, Section 1320d et seq. and its implementing regulations (including but not limited to Title 45, Code of Federal Regulations (CFR), Parts 142, 160, 162, and 164) to comply with applicable requirements of law and subsequent amendments relating to protected health information, as well as any task or activity CONTRACTOR performs on behalf of COUNTY, to the extent COUNTY would be required to comply with such requirements. More specifically, CONTRACTOR will not use or disclose confidential information other than as permitted or required by this contract and will notify COUNTY of any discovered instances of breaches of confidentiality.

Without limiting the rights and remedies of COUNTY elsewhere as set forth in this agreement, COUNTY may terminate this agreement without penalty or recourse if determined that CONTRACTOR violated a material term of the provisions of this section. CONTRACTOR ensures that any subcontractors' agents receiving health information related to this Agreement agree to the same restrictions and conditions that apply to CONTRACTOR with respect to such information.

**21. Confidentiality:** CONTRACTOR agrees to maintain a record of each individual served. These records will be maintained in the strictest confidence as per State law and in accordance with Welfare & Institutions Code, Division 5, Community Mental Health Services Act, Part 1, Lanterman-Petris-Short Act, Chapter 2, Article 7, Sections 5328 through 5331 and Code of Federal Regulations, Title 45, Section 205.50. No specific information pertaining to discrete individuals will be provided to persons or agencies other than those as set forth in the provisions contained herein. Patients' rights shall comply with Welfare and Institutions Code, Division 5, Section 5325; and California Code of Regulations, Title 9. CONTRACTOR and COUNTY further agree to hold the other harmless for any breach of confidentiality, as set forth in the indemnity provisions contained herein.

CONTRACTOR and COUNTY agree to maintain the confidentiality of patient information and records as provided by applicable law; notwithstanding, professional records and COUNTY patient information shall be interchangeable between CONTRACTOR and COUNTY to establish and support a high level of clinical services and continuity of care and aftercare services.

**22. Choice of Law:** This Agreement has been executed and delivered in the County of El Dorado, State of California. The validity, enforceability, or interpretation of this Agreement shall be governed by the laws of the State of California. El Dorado County shall be the venue for any action of proceeding, in law or equity, that may be brought in connection with this Agreement. In the event that either COUNTY or CONTRACTOR deems it necessary to take legal action to enforce any provisions of this Agreement, the parties shall each bear their own costs, which shall include, but not be limited to, reasonable attorney's fees and costs.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first below written.

**NEVADA COUNTY:**

Dated: 6/6/07

Michael J. Heggarty  
Michael Heggarty, Director  
Behavioral Health

APPROVED AS TO FORM:

Dated: 6-4-07

Michael J. Jamin  
County Counsel *N/A*  
Nevada County Board of Supervisors

Mary Hall Ross  
Mary Hall Ross  
Purchasing Agent

Dated: 7/20/07

**EL DORADO COUNTY:**

Dated: 5-14-07

Marlene Hensley  
Marlene Hensley, PHF Program Manager  
Mental Health Department

Dated: 5/15/07

John Bachman  
John Bachman, Director  
Mental Health Department

Dated: 9/11/07  
John Bachman  
Chairman  
Board of Supervisors

ATTEST:  
Cindy Keck  
Clerk of the Board of Supervisors

Dated: 9/11/07

By: Cindy Keck  
Deputy Clerk