



AGENDA ITEM NO.  
**C-9**

# COUNTY OF HUMBOLDT

For the meeting of: July 18, 2017

Date: June 22, 2017

To: Board of Supervisors

From: Connie Beck, Director  
Department of Health and Human Services – Mental Health

*Connie Beck*  
*6/21/17*

Subject: Second Amendment to the Agreement with Netsmart Technologies, Inc. for Avatar Software and Services

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve the second amendment to the agreement with Netsmart Technologies, Inc. for Avatar software and services (Attachment 1);
2. Authorizes the Chair to sign three (3) originals of the second amendment to the agreement with Netsmart Technologies, Inc.; and
3. Directs the Clerk of the Board to return two (2) signed originals of the second amendment to the agreement to the DHHS-Contract Unit for forwarding to DHHS-Mental Health Administration.

SOURCE OF FUNDING:

Mental Health Fund

Prepared by Brendan Hartsell, Administrative Analyst

CAO Approval

*[Signature]*

REVIEW:

Auditor *MBM* County Counsel *Sm* Human Resources *WLR* Other \_\_\_\_\_

TYPE OF ITEM:

- Consent
- Departmental
- Public Hearing
- Other \_\_\_\_\_

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**

Upon motion of Supervisor *Fennell* Seconded by Supervisor *Wilson*

Ayes *Fennell, Wilson, Bass, Bohn, Sundberg*

- Nays
- Abstain
- Absent

PREVIOUS ACTION/REFERRAL:

Board Order No. *G-2, C-17, C-10, C-8, C-14*

Meeting of: *12/13/2006, 6/7/2007, 4/11/2011, 5/12/2015, 6/28/2016*

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: *July 18, 2017*

By: *Kathy Hayes*  
Kathy Hayes, Clerk of the Board

## DISCUSSION:

On November 2, 2004 California voters passed Proposition 63, the Mental Health Services Act (MHSA) that provided the first opportunity in many years for the California Department of Mental Health (now known as the California Department of Health Care Services) to provide increased funding, personnel and other resources to support county mental health programs and monitor progress toward statewide goals for children, transitional age youth, adults, older adults and families. This included the implementation of the Technical Needs project that provided DHHS the opportunity to replace its outdated and insufficient computer system with a secure electronic health records (eHR) system.

As of January 2014, federal health reform mandates that all medical providers (physicians, group practices, hospitals, and health systems, etc.) and organizations (laboratories, governmental agencies, and pharmacies, etc.) use electronic medical records (as a supplier, recipient or both). DHHS went live with electronic health records (eHR) on April 1, 2014 by using Netsmart Technologies, Inc. ("Netsmart") Avatar software.

Netsmart Avatar's integrated clinical and administrative information system:

- Provides secure, reliable, real-time access to client health record information where and when it is needed to support care.
- Functions as a centralized and integrated information resource for service providers during the provision of client care.
- Assists with the work of planning and delivering evidence-based care to individuals and groups of clients.
- Captures data used for continuous quality improvement, utilization review, risk management, resource planning, and performance measurement.
- Supports clinical applications such as computerized entry and decision support tools.
- Summarizes via electronic prescribing, prescribed medications from all providers for quality management, and coordination of care, and
- Provides compatibility with scheduling, billing and reporting applications as well as personal health record technologies.

On June 28, 2016 (item C-14), the Board approved the first amendment to the Netsmart Avatar software license and services agreement for the period of July 1, 2016 through July 31, 2017; this second amendment to the agreement with Netsmart, extends the term of the agreement through June 30, 2018, modifies the agreement's number of purchased licenses, allows for the continuation of annual maintenance and support for DHHS licensed programs, and adjusts the budget.

A modern integrated clinical and administrative information system is necessary to support increased quality of care and operational efficiencies, satisfy federal HIPAA requirements for a compliant electronic health record, further system transformation, and improve outcomes for clients. Therefore, DHHS recommends the Board approves the second amendment to the agreement with Netsmart Technologies, Inc. for Avatar software and services.

## FINANCIAL IMPACT:

This second amendment to agreement with Netsmart Technologies, Inc. includes the following payment terms for FY 2017-18: annual recurring charges and subscriptions, \$118,087.01; annual Netsmart services, \$9,496.80; one-time Netsmart service fees, \$20,000; Netsmart professional services not to exceed \$61,875; and one-time Third Party products and services, \$4,270.00 Expenditures related to this second amendment to agreement have been included in DHHS-Mental Health Administration proposed budget for FY 2017-18, budget unit 1170-424.

Funding for this second amendment to agreement is available from Mental Health Services Act, Medi-Cal Federal Financial Participation, and State Realignment. There is no impact to General Fund.

Approval of this second amendment to agreement will support your Board's strategic framework by providing for and maintaining infrastructure. In addition, the DHHS – Mental Health integrated clinical and administrative information system will create opportunities for improved safety and health.

#### OTHER AGENCY INVOLVEMENT

None

#### ALTERNATIVES TO STAFF RECOMMENDATIONS

The Board could choose not to approve the second amendment to agreement, however, this alternative is not recommended. Failure to comply with federal and state eHR mandates would result in reduced claiming/billing on all claimable county Medicaid and Medicare services. For non-compliant counties and other health care providers, these claiming penalties will increase each year for a period of several years, reducing county revenue. DHHS-Mental Health would also fall out of compliance with regulations, again reducing the ability to acquire and maintain funding, increase the risk of legal action, impact the ability to maintain site and provider certifications and be at risk of federal and state fines and penalties.

#### ATTACHMENTS

Attachment 1 Second Amendment to the Agreement with Netsmart Technologies, Inc for software and services (3 originals)

Attachment 2 Agreement with Netsmart Technologies, Inc for fiscal years 2014-15 and 2015-16

Attachment 3 First Amendment to the Agreement with Netsmart Technologies, Inc for fiscal years 2016-2017

**SECOND AMENDMENT  
LICENSE AND SERVICE AGREEMENT  
BY AND BETWEEN  
COUNTY OF HUMBOLDT  
AND  
NETSMART TECHNOLOGIES, INC.  
FOR FISCAL YEARS 2014-2015 THROUGH 2017-2018**

This Second Amendment to the Netsmart Customer License and Service Agreement dated May 12, 2015, as amended on June 28, 2016, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "LICENSEE," and Netsmart Technologies, Inc., a Delaware corporation authorized to do business in the State of California, hereinafter referred to as "NETSMART," is entered into this 18 day of July, 2017.

WHEREAS, LICENSEE, by and through its Department of Health and Human Services – Mental Health, desired to use and operate the Avatar electronic health record software and receive related training, support and project management services; and

WHEREAS, on May 12, 2015, LICENSEE and NETSMART entered into a Netsmart Customer License and Service Agreement ("License and Service Agreement") regarding the use and operation of the Avatar system and the provision of related training, support and project management services; and

WHEREAS, on June 28, 2016, LICENSEE and NETSMART agreed to amend the License and Service Agreement to extend the term thereof, expand the scope of services provided thereunder and increase the maximum amount payable to NETSMART for the provision of such services; and

WHEREAS, the parties now desire to amend certain provisions of the License and Service Agreement to in order to further extend the term thereof, expand the scope of services provided thereunder and adjust the rates of compensation set forth therein.

NOW THEREFORE, the parties mutually agree as follows:

1. Section 5 – Term of the License and Service Agreement is hereby amended to read as follows:

5. TERM:

The term of this Agreement shall begin on July 1, 2014 and shall remain in full force and effect until June 30, 2018, unless sooner terminated as provided herein. For avoidance of doubt, the license granted to LICENSEE is perpetual.

2. The License and Service Agreement is hereby amended to delete Exhibit 1 – Schedule A – Deliverables, Pricing, and Payment Terms ("Schedule A"), and replace it in its entirety with the modified version of Schedule A that is attached hereto and incorporated herein by reference. The modified version of Schedule A attached hereto shall supersede any and all prior versions thereof, as of August 1, 2017.

3. Except as modified herein, the License and Service Agreement dated May 12, 2015, as amended on June 28, 2016, shall remain in full force and effect. In the event of a conflict between the provisions of this Second Amendment and the original License and Service Agreement, or any prior amendments thereto, the provisions of this Second Amendment shall govern.

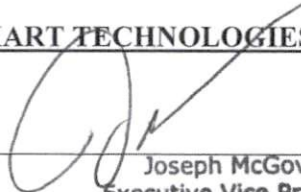
[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have entered into this Second Amendment as of the first date written above.

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.

**NETSMART TECHNOLOGIES, INC.:**

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

Date: 6/26/17

Name: Joseph McGovern  
Executive Vice President  
Netsmart Technologies, Inc.

Title: \_\_\_\_\_

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

Date: 6/26/17

Name: Timothy Donovan

Title: Vice President + General Counsel

**COUNTY OF HUMBOLDT:**

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

Date: 7/18/17

Virginia Bass  
Chair, Humboldt County Board of Supervisors

**INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:**

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

Date: 7/20/17

Risk Management

**EXHIBIT 1 – SCHEDULE A  
DELIVERABLES, PRICING, AND PAYMENT TERMS  
NETSMART TECHNOLOGIES, INC.  
FOR FISCAL YEARS 2014-2015 THROUGH 2017-2018**

<b>Netsmart Programs</b>	<b>Qty</b>	<b>Amount</b>	<b>Due – Invoices payable net 30 days</b>
<b><u>Netsmart Programs Already licensed under Prior Agreement</u></b>			
RADplus – Named Users: Includes Avatar System access and security management, modeling, table and dictionary maintenance and ad-hoc report integration	342	\$0	Already licensed under Prior Agreement (ongoing maintenance fees apply and are listed below)
Avatar Practice Management – Includes system management, client tracking, scheduling and reporting functions	1	\$0	Already licensed under Prior Agreement
Clinician Workstation – includes system management, assessment, progress notes, treatment planning and reporting functions	1	\$0	Already licensed under Prior Agreement
Avatar Order Entry License	1	\$0	Already licensed under Prior Agreement
Avatar eMAR License	1	\$0	Already licensed under Prior Agreement
Avatar Electronic Signature License	1	\$0	Already licensed under Prior Agreement
Avatar RADplus Named User License(343-367)	25	\$20,000.00	One time charge (ongoing maintenance fees apply)
<b><u>Third Party Products and Services</u></b>			
Avatar Perceptive POS Scanning License	1	\$0	Already licensed under Prior Agreement
Avatar Perceptive Batch Scanning License	1	\$0	Already licensed under Prior Agreement
Document Capture Maintenance (includes what was previously Avatar Perceptive POS Scanning Maintenance and Avatar Perceptive Batch Scanning Maintenance)	1	\$2,080	Due annually on 7/1, with 4% annual increase effective 7/1/17
Avatar Cache Elite, Multi Server Platform Specific License – Concurrent	54	\$0	Already licensed under Prior Agreement (ongoing maintenance fees apply and are listed below)
Avatar Cache Enterprise License, Platform Specific, Single Server	63	\$0	Already licensed under Prior Agreement (ongoing maintenance fees apply and are listed below)
Avatar Cache Enterprise License, Platform Specific, Single Server	5	\$0	Already licensed under Prior Agreement (ongoing maintenance fees apply and are listed below)
Avatar Cache Elite Multi-Server, Platform Spec License	5	\$4,270.00	One time charge (ongoing maintenance fees apply)
<b><u>Annual Recurring Charges and Subscriptions</u></b>			
Annual Maintenance and Support (existing RADplus and Cache Maintenance)		\$107,061.41 annually	Due annually 12/31 with 4% annual increase
Additional Named User Maintenance		\$4,200.00 Annually	Due annually 12/31 with 4% annual increase

Additional Cache Maintenance purchased 04/18/14		\$960.00 annually	Due annually 12/31 with 4% annual increase
Annual Iron Mountain Escrow		\$3,785.60 annually	Due annually 12/31 with 4% annual increase
<b>Netsmart Services</b>			
Order Entry and eMar Implementation		\$0	n/a – Services not yet performed as requested by the County.
Perceptive Document/Data Conversion		\$0	Already licensed under Prior Agreement
PLEXUS ADVANCED PROFESSIONAL SERVICES (275 AT \$225/HOUR)		\$61,875	Invoiced monthly for hours used.
AVATAR WEB SERVICES		\$0	Already licensed under Prior Agreement
AVATAR WEB SERVICES MAINTENANCE		\$4,200	Due annually 12/31 with 4% annual increase
DIAGNOSIS CONTENT ON DEMAND SUBSCRIPTION (ICD10/DSM5)		\$5,090.40	Invoiced annually
ADDITIONAL DIAGNOSIS CONTENT ON DEMAND (ICD10/DSM5)		\$206.40	Invoiced annually
<p><b>TRAVEL AND LIVING AND TRAVEL TIME EXPENSES</b>  Travel time will be billed at a rate of \$150 per hour.  Billed monthly as incurred at the most economical rates</p> <p>Travel and Living Expenses are as follows:</p> <p>Meals: Netsmart's current daily per diem rate is \$65.00  Airline: Coach Class on Major Airlines including any additional fees applied by the airline  Vehicle: Vehicle usage will be reimbursed at the current IRS Allowance  Rental Car: Mid-Size vehicle at local rates plus fuel, tolls, parking  Hotel: At local rates</p>			