



AGENDA ITEM NO.
C-17

COUNTY OF HUMBOLDT

For the meeting of: June 12, 2012

Date: May 11, 2012

To: Board of Supervisors

From: Phillip R. Crandall, Director *Ag for PC*
Department of Health and Human Services-Mental Health Branch

Subject: Agreement with St. Joseph Hospital of Eureka for Fiscal Years 2012-2014

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve and authorize the Chair to sign the Agreement with St. Joseph Hospital Eureka for hospital medical services for Fiscal Years 2012-2014.
2. Direct the Clerk of the Board to return two signed copies of the Agreement to the Mental Health Branch.

SOURCE OF FUNDING:

Mental Health Fund

Prepared by Diane Goldsmith Harger, MA Administrative Analyst II

CAO Approval

Amey Olsen

REVIEW:

Auditor *MSM* County Counsel *KR* Personnel _____ Risk Manager *KN* Other _____

TYPE OF ITEM:

- Consent
 Departmental
 Public Hearing
 Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor *Sindberg* Seconded by Supervisor *Lavelace*

Ayes *Sindberg, Lavelace, Bass, Smith, Clendenen*
 Nays _____
 Abstain _____
 Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No. C-23

Meeting of: 6/22/2010

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

Dated: *June 12, 2012*
 By: *Kathy Hayes*
 Kathy Hayes, Clerk of the Board

DISCUSSION:

The Humboldt County Department of Health and Human Services- Mental Health Branch (MHB) provides mental health services, including a psychiatric hospital, and frequently requires hospital services to facilitate care of County mental health patients.

St. Joseph Hospital Eureka is an acute care health facility, licensed by the State of California and accredited by Healthcare Facilities Accreditation Program-American Osteopathic Association ("HFAP-AOA) and licensed by the California Department of Public Health. As part of the hospital operations, it provides emergency, laboratory, pharmacy, radiology, surgery, and dietary services at its facilities.

Working collaboratively with St. Joseph Hospital Eureka facilitates appropriate care and treatment of the Mental Health Branch's Medi-Cal and indigent patients. This routinely requires medical clearance, lab work, and other ancillary services from St. Joseph Hospital Eureka. This mutual support ensures the health and safety of MHB patients while in our care.

The Mental Health Branch desires to continue contracting with St. Joseph Hospital Eureka for Fiscal Years 2012-14 and recommends that the Board approves and authorizes the Chair to execute the Agreement.

FINANCIAL IMPACT:

Contract between St Joseph's Hospital and DHHS-Mental Health Branch provides for an adjusted rate for Hospital related services provided to clients that are concurrently admitted to Sempervirens Psychiatric unit. The maximum value of this agreement is not to exceed \$100,000.00 (One Hundred Thousand Dollars) per Fiscal Year. This expenditure has been included in the proposed budget for FY 2012-14 DHHS- Mental Health Branch- Sempervirens budget unit 1170-495. There is no impact to the County General Fund.

This agreement will help ensure the safety and health of clients and protect vulnerable populations.

OTHER AGENCY INVOLVEMENT:

St. Joseph Hospital Eureka

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board Discretion

ATTACHMENTS:

Service Agreement (three copies)

**AGREEMENT
BY AND BETWEEN
HUMBOLDT COUNTY
AND
ST. JOSEPH HOSPITAL OF EUREKA
FOR FISCAL YEARS 2012-2014**

This Agreement, made and entered into this 12 day of June, 2012 at Eureka, California, by and between Humboldt County, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and St. Joseph Hospital of Eureka, a California Corporation, hereinafter referred to as HOSPITAL, hereinafter referred to as "HOSPITAL," is made upon the following considerations:

WHEREAS, COUNTY through its Department of Health and Human Services (DHHS), Mental Health Branch desires to provide hospital medical services; and

WHEREAS, HOSPITAL offers these services; and

WHEREAS, COUNTY wishes to obtain services from HOSPITAL on behalf of itself and/or its clients/patients.

NOW THEREFORE BE IT AGREED:

1. HOSPITAL

St. Joseph Hospital of Eureka is an acute care health facility licensed by the State of California Department of Public Health and accredited by Healthcare Facilities Accreditation Program-American Osteopathic Association (HFAP-AOA). As part of HOSPITAL'S operations, it provides surgery, radiology, laboratory, pharmacy, emergency and dietary services at its facility, hereinafter referred to as SERVICES.

2. COUNTY

COUNTY provides mental health services, including a secure psychiatric health facility, as part of its operations, hereinafter referred to as PROGRAM. PROGRAM occasionally requires SERVICES to facilitate its care of County mental health patients.

3. PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is to set forth the terms and conditions pursuant to which HOSPITAL shall provide SERVICES to PROGRAM.

4. GENERAL QUALIFICATIONS

HOSPITAL shall maintain appropriate licensure and accreditation, as listed in Section 1, at all times during the term of this Agreement. Failure of HOSPITAL to so maintain licensure and accreditation shall create in COUNTY the right to terminate this Agreement effective immediately.

5. SPECIFIC QUALIFICATIONS

HOSPITAL shall ensure that SERVICES are reasonably available and provided in a manner consistent with relevant law and regulation.

6. SERVICES TO BE PROVIDED

HOSPITAL shall make reasonably available to PROGRAM patients, upon request and, with appropriate physician orders, the SERVICES described herein. It is understood and agreed that SERVICES shall be provided at HOSPITAL'S facility. Further, it is understood and agreed that COUNTY will arrange for patient transport to and from HOSPITAL'S facility for patients requiring SERVICES under this Agreement. Finally, it is understood and agreed that such patients provided with SERVICES by HOSPITAL shall at all times remain patients of the PROGRAM. SERVICES are expected to benefit the PROGRAM

patients in the following way: The medical needs of the patient will be met by HOSPITAL so that the COUNTY can effectively treat their mental health needs. HOSPITAL will complete discharge instructions for each PROGRAM patient and provide a copy to the PROGRAM staff accompanying the PROGRAM patient. The discharge instructions will include follow-up recommendations for treatment initiated at the HOSPITAL. HOSPITAL will make every reasonable effort to notify the PROGRAM patient's primary care provider, if the PROGRAM patient provides information regarding the primary care provider, of the PROGRAM patient's condition upon discharge. The goal is to improve coordination of care between PROGRAM patient's providers.

7. SERVICE STANDARD

HOSPITAL agrees that the SERVICES referred to in this Agreement shall be provided in a competent, efficient and quality manner, consistent with the policies and procedures of HOSPITAL and COUNTY, consistent with all relevant laws, and provided at the same levels of care to all parties, including Medi-Cal beneficiaries, regardless of their payor. HOSPITAL shall provide COUNTY with reports documenting the services rendered. HOSPITAL will notify COUNTY of any current or anticipated difficulty in providing services, or if the services do not appear to be providing the anticipated benefit to the PROGRAM patients. HOSPITAL shall admit all PROGRAM patients referred and transported by COUNTY to HOSPITAL to the extent that HOSPITAL has the capacity to admit them. HOSPITAL shall also address the immediate medical needs of PROGRAM patients as may be required by applicable laws.

8. NO TERMS NOT INCLUDED:

This Agreement contains all the terms and conditions agreed upon by the parties

hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in its entirety any and all prior agreements of the parties.

9. TERM:

The term of this Agreement shall be from July 1, 2012 and shall continue through June 30, 2014, unless sooner terminated as provided herein.

10. TERMINATION:

A. Breach of Contract -- COUNTY may immediately suspend or terminate this Agreement in whole or in part, where in its sole discretion, the determination is made that there is:

- i. An illegal or improper use of funds;
- ii. A failure to comply with any term of this Agreement;
- iii. A substantially incorrect or incomplete report submitted; or
- iv. Improperly performed service.

B. Without Cause -- This Agreement may be terminated by either party without cause as follows:

- i. If terminated by HOSPITAL, termination shall require sixty (60) days advance written notice of terminate. The notice shall state the effective date of the termination.
- ii. COUNTY may terminate this Agreement without cause upon thirty (30) days written notice; except that COUNTY shall take into consideration the welfare of PROGRAM patients and make allowance for the treatment needs of PROGRAM patients.

11. NOTICES:

Any and all notice(s) required to be given pursuant to the terms of this Agreement may be given personally or by registered mail addressed to either COUNTY or HOSPITAL at the following addresses:

COUNTY: Humboldt County Dept. of Health and Human Services
Attention: Mental Health Branch Director
720 Wood Street
Eureka, California 95501

HOSPITAL: St. Joseph Hospital, Eureka
Attention: Administration
2700 Dolbeer Street
Eureka, CA 95501

12. ATTORNEY FEE ON BREACH:

HOSPITAL and COUNTY each agree that in the event any action, suit or proceeding be commenced to complete the performance of this Agreement or to seek damages for breach thereof, it will pay reasonable attorney's fees (including reasonable value of services rendered by County Counsel or HOSPITAL'S in-house counsel) to the prevailing party, to be awarded and fixed by the court, and to be taxed as cost and to be included in the judgment thereon rendered.

13. PAYMENT:

COUNTY will reimburse HOSPITAL for SERVICES pursuant to this Agreement not to exceed the maximum amount of One Hundred Thousand Dollars (\$100,000.00) per fiscal year. HOSPITAL shall not be required to continue to provide SERVICES once the maximum amount has been met. It shall be the responsibility of HOSPITAL to notify COUNTY in writing, at least six (6) weeks prior to the date upon which HOSPITAL estimates that the maximum amount will be exceeded. For SERVICES rendered pursuant to this Agreement, HOSPITAL shall be paid amounts equal to the standard HOSPITAL fee-for-service rates for such SERVICES (except those provided to Medicare Part A eligible patients). The COUNTY will pay claims for which they are responsible within thirty (30) days of receipt of a claim.

14. MANNER OF PAYMENT - NON MEDICARE PATIENT

HOSPITAL shall bill patients and their third party insurers for all SERVICES received. Patient shall have the responsibility to compensate HOSPITAL for SERVICES rendered. In the event that COUNTY is responsible, COUNTY will pay HOSPITAL at the rate of fifty percent (50%) of billed charges for HOSPITAL related charges and fifty percent (50%) of usual and customary laboratory fees.

15. MANNER OF PAYMENT - MEDICARE (PART A) PATIENT

HOSPITAL shall bill COUNTY at its current prevailing fees for all services requested by COUNTY provided to Medicare Part A eligible patients who are inpatients in COUNTY'S PROGRAM at the time service is rendered. COUNTY will pay HOSPITAL at the rate of forty percent (40%) of billed charges which approximates its interim payment rate from Medicare. Parties agree to update the interim payment rate on an annual basis.

16. BILLING ASSISTANCE

COUNTY shall make available to HOSPITAL any and all billing information it may have regarding patients it refers for SERVICES at HOSPITAL. Current Medi-Cal cards and stickers, or other insurance documentation shall be presented by COUNTY to the HOSPITAL at the time of SERVICE.

17. NO WAIVER OF DEFAULT:

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

In no event shall any payment by COUNTY constitute a waiver of any breach of this Agreement or any default which may then exist on the part of the HOSPITAL. Neither shall such payment impair or prejudice any remedy

available to COUNTY with respect to the breach or default. COUNTY shall have the right to demand of the HOSPITAL the repayment of any funds disbursed to the HOSPITAL under this Agreement, which were not expended in accordance with the terms of this Agreement. The HOSPITAL shall promptly refund any such funds upon demand.

18. AUDITS:

HOSPITAL shall be subject to the examination and audit of the State Auditor General for a period of three (3) years after final payment under this Agreement pursuant to Government Code Section 8546.7.

19. REPORTING:

HOSPITAL agrees to provide COUNTY with any reports that may be required by County, State or Federal agencies for compliance with this Agreement.

20. MONITORING:

HOSPITAL agrees to extend to the Humboldt County Mental Health Branch Director, the State Department of Mental Health or their designees, the right to review and monitor records, programs or procedures, at any time, in regards to clients, as well as the overall operation of HOSPITAL'S programs in order to ensure compliance with the terms and conditions of this Agreement.

21. ASSIGNMENT:

Neither party shall assign its obligations under this Agreement without the prior written consent of the other party. Any assignment in violation of this provision shall be void and shall be cause for immediate termination of this Agreement.

22. SUBCONTRACTING:

HOSPITAL shall not subcontract for any services without prior written approval of COUNTY.

23. RELATIONSHIP OF PARTIES:

It is understood that this is an Agreement by and between two independent contractors and is not intended to, and shall not be construed to, create the relationship of agents, servant, employee, partnership, joint venture, or any other similar association. Both parties further agree that HOSPITAL shall not be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, retirement benefits, worker's compensation and injury leave or other leave benefits.

24. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

HOSPITAL certifies by its signature below that HOSPITAL is not a Nuclear Weapons Contractor, in that HOSPITAL is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. HOSPITAL agrees to notify COUNTY immediately if it becomes a Nuclear Weapons Contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if HOSPITAL becomes a Nuclear Weapons Contractor.

25. COMPLIANCE WITH LAWS:

HOSPITAL agrees to comply with all applicable local, state and federal laws and regulations, including but not limited to the Americans with Disabilities Act. Compliance with the Americans with Disabilities Act, includes, but is not limited to, the following areas:

- A. Whatever written information is provided regarding its programs will also be provided in alternate formats, including Braille, large print audio recording, and electronic formats, upon request.
- B. Enter into contracts or make other arrangements with qualified sign language and oral interpreters to ensure their availability when required for effective communication with persons who are deaf or hard of hearing. The type of aid that will be required for effective communication will depend on the individual's usual method of communication, and the nature, importance, and duration of the communication at issue. In many circumstances, oral communication supplemented by gestures and visual aids, an exchange of written notes, use of a computer or typewriter, or use of an assistive listening device may be effective. In other circumstances, qualified sign language or oral interpreters are needed to communicate effectively with persons who are deaf or hard of hearing. The more lengthy, complex, and important the communication, the more likely it is that a qualified interpreter will be required for effective communication with a person whose primary means of communication is sign language or speech reading.
- C. If the HOSPITAL operates a hotline to take telephone calls of an emergency nature, the HOSPITAL shall ensure that it provides equivalent service for persons who use TTY's including providing direct-connection service for TTY users with hotline operators, without requiring TTY users to call through a third party operator, such as through the state or local Telecommunication Relay procedures, and provide the training necessary to ensure effective communication by Hotline staff with direct-connection

callers using TTY's, as well as the training necessary to respond to callers who use the Telecommunication Relay Services.

- D. Have written procedures and modify, as appropriate, eligibility criteria, to ensure that no person with a disability is turned away from a shelter or otherwise denied the opportunity to benefit from the services of the HOSPITAL'S program on the basis of disability.
- E. Have written procedures to ensure that persons with disabilities who use service animals are not denied or discouraged from receiving services at HOSPITAL, are able to be housed and served in an integrated environment, and are not separated from their service animals while receiving services at HOSPITAL even if pets are normally not permitted in the facilities where such programs are conducted. The procedures will not unnecessarily segregate persons who use service animals from others but may take into account the potential presence of persons who, for safety or health reasons, should not be in contact with certain types of animals.
- F. Have written procedures to ensure reasonable accommodations for a patient with a disability.
- H. Have written policies to ensure that despite any "drug-free" policy of the HOSPITAL, persons with disabilities who use medication prescribed for their use are able to continue using such medication, if medically necessary.

HOSPITAL agrees that all professional level persons employed by HOSPITAL have met applicable professional licensure requirements pursuant to the Welfare and Institutions and Business and Professions Codes.

HOSPITAL further agrees to comply with any applicable Federal, State or local licensing standards, any applicable accrediting standards and any other applicable standards or criteria established locally or by the State or Federal governments.

26. VENUE AND APPLICABLE LAW:

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder or relating to this Agreement shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure Sections 394 and 395.

27. REFERENCE TO LAWS AND RULES:

In the event any law, regulation or policy referred to in this Agreement is amended during the term hereof, the parties agree to comply with the amended provision as of the effective date of such amendment.

28. NONDISCRIMINATION:

- A. Consistent with the requirements of applicable Federal or State law, HOSPITAL will not engage in any unlawful discriminatory practices in the admission of patients, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, religion, marital status, national origin, age, sexual orientation or mental or physical handicap.
- B. During the performance of this Agreement, HOSPITAL and its subcontractors will not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, mental or physical handicap, medical conditions, marital status, age, sexual orientation or sex. HOSPITAL and its subcontractors will

comply with the Disabilities Act of 1990, the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (Title 2, CCR, Section 7285 et seq.). HOSPITAL will ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5, Division 4 of Title 2, CCR, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. HOSPITAL and its subcontractors will give written notice of their obligation under this clause to labor organizations with which they have a collective bargaining or other agreement.

- C. HOSPITAL will comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Welfare Agency, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.
- D. HOSPITAL will include the nondiscrimination and compliance provisions of this Agreement in all subcontracts to perform work under this Agreement.

29. RECORDS:

HOSPITAL shall maintain statistical, clinical and financial records in the manner provided by the State Health and Welfare Agency and make such records available to COUNTY as required by the Humboldt County Mental Health

Branch Director, and the California State Health and Welfare Agency.

- A. Fiscal Records -- if applicable, HOSPITAL shall maintain accurate records of its costs and operating expenses. Such records of costs, expenditures and reimbursements shall be maintained for at least five (5) years from the close of the State's fiscal year during which services were provided, or until audit findings are resolved, whichever is later. Such records shall be open to inspection by the Humboldt County Mental Health Branch Director, the Humboldt County Auditor-Controller, the Humboldt County Grand Jury, the State Controller, the State Director of the Department of Mental Health or any of their designees.
- B. Clinical Records -- if direct patient or client treatment services have been provided, HOSPITAL shall maintain accurate and legible clinical/medical records in accordance with the Humboldt County Mental Health Medical Records Policy and Procedures. HOSPITAL shall maintain medical records for at least seven (7) years from the close of the State's fiscal year during which services were provided, except that the records of persons under age eighteen (18) at the time of treatment shall be maintained: a) until one (1) year beyond the person's eighteenth (18th) birthday or b) for a period of seven (7) years beyond the date of discharge, whichever is later. All such records shall be considered confidential patient records in accordance with California Welfare and Institutions Code, Section 5328, regarding patient confidentiality. Clinical records shall contain sufficient detail to make possible an evaluation by the Humboldt County Mental Health Branch Director or designee or the State Department of Mental Health, and shall be kept in accordance with the rules and regulations of

the California Code of Regulations, Title XXII.

30. CONFIDENTIALITY OF RECORDS:

In the performance of this Agreement, HOSPITAL may receive confidential information. HOSPITAL agrees to protect the confidentiality of patients in conformance with, but not limited to, the California Welfare and Institutions Code Sections 827, 5328, and 10850, the California Confidentiality of Medical Information Act, California Health & Safety Code sections 1280.15 and 130203 as applicable, the United States Health Information Portability and Accountability Act of 1996 ("HIPAA") and the United States Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("HITECH Act"), and their implementing regulations, including as appropriate Title 45 of the Code of Federal Regulations Section 205.50.

31. INSURANCE REQUIREMENTS:

- A. THIS CONTRACT SHALL NOT BE EXECUTED BY COUNTY and the HOSPITAL is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the Clerk of the Humboldt County Board of Supervisors.
- B. Without limiting HOSPITAL'S indemnification obligations provided for herein, HOSPITAL shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Agreement and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with

the activities hereunder of HOSPITAL, its agents, officers, directors employees, licensees, invitees, assignees or subcontractors:

1. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of Three Million Dollars (\$3,000,000) per occurrence for any one incident, including, personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be Five Million Dollars (\$5,000,000).
2. Automobile/Motor liability insurance with a limit of liability of not less than One Million Dollars (\$1,000,000) combined single limit coverage. Such insurance shall include of all "owned", "hired", and "non-owned" vehicles or coverage for "any auto".
3. Workers Compensation and Employer's Liability Insurance providing worker's compensation benefits as required by the Labor Code of the State of California. Said policy shall contain or be endorsed to contain a waiver of subrogation against COUNTY, its officers, agents, and employees. In all cases, the above insurance shall include Employers Liability coverage with limits of not less than one million dollars per accident for bodily injury and disease.
4. Professional liability insurance/errors and omission coverage in an amount no less than Three Million Dollars (\$3,000,000) combined single limit (CSL). Said insurance shall be maintained for the statutory period during which the professional may be exposed to

liability. Contractor shall require that the aforementioned professional liability insurance coverage language be incorporated into its contract with any other entity with which it contracts for professional services.

5. Insurance Notices:

County of Humboldt
Attn: Risk Management
825 5th Street, Room 131
Eureka, CA 95501

C. **Special Insurance Requirements.** Said policies shall unless otherwise specified herein be endorsed with, the following provisions:

1. The Comprehensive General Liability Policy shall provide that the COUNTY, its officers, officials, employees and volunteers, are covered as additional insured for liability arising out of the operations performed by or on behalf of CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the COUNTY, its officers, officials, employees, and volunteers. Said policy shall also contain a provision stating that such coverage:
 - a. Includes contractual liability.
 - b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
 - c. Is primary insurance as regards to County of Humboldt.

- d. Does not contain a pro-rata, excess only, and/or escape clause.
 - e. Contains a cross liability, severability of interest or separation of insureds clause.
2. The policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY and in accordance with the Notice provisions set forth under Section 13. It is further understood that CONSULTANT shall not terminate such coverage until it provides COUNTY with proof satisfactory to COUNTY that equal or better insurance has been secured and is in place.
 3. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.
 4. For claims related to this project, the CONSULTANT'S insurance is primary coverage to the COUNTY, and any insurance or self-insurance programs maintained by the COUNTY are excess to CONSULTANT'S insurance and will not be called upon to contribute with it.
 5. Any failure to comply with reporting or other provisions of the Parties, including breach of warranties, shall not affect coverage provided to COUNTY, its officers, officials, employees, and volunteers.

6. CONSULTANT shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement by COUNTY. The endorsements shall be on forms as approved by the COUNTY'S Risk Manager or COUNTY Counsel. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000) shall be disclosed to and approved by COUNTY. If CONSULTANT does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and CONSULTANT agrees to pay the cost of said insurance. COUNTY is also hereby authorized with the discretion to deduct the cost thereof from the monies owed to CONSULTANT under this Contract.
7. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered and CONSULTANT shall be required to purchase additional coverage to meet the aggregate limits set forth above.

32. HOLD HARMLESS/INDEMNIFICATION AGREEMENT:

- A. HOSPITAL shall indemnify, defend and hold harmless COUNTY and its officers, officials, employees and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with HOSPITAL'S duties and obligations under this Agreement and any amendments hereto.

- B. COUNTY shall indemnify, defend and hold harmless HOSPITAL and its officers, officials, employees and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with COUNTY'S duties and obligations under this Agreement and any amendments hereto.
- C. Notwithstanding paragraphs a and b, in the event that HOSPITAL and COUNTY are both held to be negligently or willfully responsible, HOSPITAL and COUNTY will bear their proportionate share of liability as determined in any such proceeding. Each side will bear their own costs and attorney's fees.
- D. Acceptance of insurance, if required by this Agreement, does not relieve HOSPITAL from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by HOSPITAL'S operations regardless if any insurance is applicable or not.

33. MEDIA RELEASE:

All press releases and informational material related to this Agreement shall receive approval from COUNTY prior to being released to the media (television, radio, newspapers, Internet). In addition, HOSPITAL shall inform COUNTY of requests for interviews by media related to this Agreement prior to such interviews taking place. COUNTY reserves the right to have a representative present at such interviews. All notices required by this provision shall be given to the Director of the Humboldt County Department of Health and Human Services

or his designee.

34. PROTOCOLS:

Both parties recognize that a number of protocols must be negotiated to make this Agreement specific. In regard to all such protocols, they shall be agreed to by COUNTY and the Humboldt County Mental Health Director and HOSPITAL.

35. DRUG FREE WORKPLACE CERTIFICATION:

By signing this Agreement, HOSPITAL hereby certifies that HOSPITAL will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by doing all of the following:

- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).
- B. Establish a Drug-Free Awareness Program, as required by Government Code Section 8355(a)(2), to inform employees about all of the following:
 - i. the dangers of drug abuse in the workplace,
 - ii. HOSPITAL'S policy of maintaining a drug-free workplace,
 - iii. any available counseling, rehabilitation and employee assistance programs, and
 - iv. penalties that may be imposed upon employees for drug abuse violations.
- C. Provide as required by Government Code Section 8355(a)(3) that every employee who works on the Agreement:
 - i. will receive a copy of HOSPITAL'S drug-free policy statement, and
 - ii. will agree to abide by the terms of HOSPITAL'S statement as a condition of employment on the Agreement or grant.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and HOSPITAL may be ineligible for award of future state contracts if the Department determines that any of the following has occurred: (1) HOSPITAL has made a false certification or, (2) violates the certification by failing to carry out the requirements as noted above.

36. PATIENTS' RIGHTS:

The parties to this Agreement shall comply with applicable laws, regulations and State policies relating to patients' rights.

37. CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE:

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of eighteen (18), if the services are funded by federal programs either directly or through State or local governments, by Federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable Federal funds is Medicare or Medicaid; or facilities where Women, Infants and Children Program ("WIC") coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to One Thousand Dollars (\$1,000) for each violation and/or the

imposition of an administrative compliance order on the responsible entity.

By signing this Agreement, HOSPITAL certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

38. UTILIZATION REVIEW:

COUNTY, through its Mental Health Branch Director, may designate a person(s) to perform a utilization and/or professional standards review of all patients for which it is expected to make reimbursement.

39. COST REPORT:

HOSPITAL shall submit an unaudited end of the fiscal year final cost report summarizing all costs incurred providing services for County-linked patients during the fiscal year. This will occur no later than ninety (90) days following the close of the fiscal year. Final Cost Report shall meet the specifications of the mandated cost reporting requirements of COUNTY, pertaining to that fiscal year.

40. DETERMINATION OF ABILITY TO PAY:

If so directed by the Humboldt County Mental Health Branch Director, HOSPITAL shall determine patient's share of cost using the State's Uniform Method of Determining the Ability to Pay, relaying to COUNTY the results of such determination. This shall be done any time there is a demonstrable change in patient financial status but no less than annually. HOSPITAL avers that inability to pay shall be no bar to HOSPITAL'S services. However, HOSPITAL further agrees that unwillingness to pay may bar services (except in emergencies) following consultation with COUNTY. COUNTY agrees to provide training in the determination of ability to pay.

41. AMENDMENT:

This Agreement may be amended at any time during the term of this Agreement upon the written mutual consent of both parties.

42. HIPAA COMPLIANCE-COVERED ENTITY TO COVERED ENTITY:

COUNTY and HOSPITAL each consider and represent themselves as covered entities as defined by U. S. Health Information Portability and Accountability Act. And agree to use and disclose protected health information as required by law.

COUNTY and HOSPITAL acknowledge that the exchange of protected health information between them is only for treatment, payment, and health care operations.

The HOSPITAL agrees to adhere to the terms and conditions set forth therein.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and date first above written.

ATTEST:

KATHY HAYES


Clerk of the Board of Supervisors of the County of Humboldt, State of California

By: 


APPROVED AS TO LEGAL FORM:


County Counsel

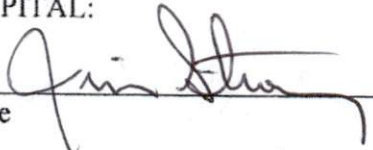
APPROVED AS TO INSURANCE:

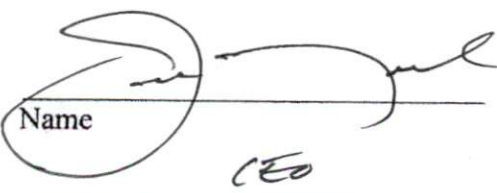

Risk Manager

COUNTY OF HUMBOLDT:


Chair, of the Board of Supervisors

HOSPITAL:


Name
VP CFO/COO
Title


Name
CEO
Title

[Two corporate officers must sign.]