CONTRACT FOR MEDICAL SERVICES
COUNTY OF SAN LUIS OBISPO, BEHAVIORAL HEALTH SERVICES

THIS CONTRACT entered into by and between the County of San Luis Obispo, a public entity in the State of California, hereafter "County" and Hani Boutros, M.D. (hereafter "Contractor"),

WITNESSETH

WHEREAS, County has a need for Medical services to San Luis Obispo County, Health Agency, Behavioral Health Services, Mental Health clients, as more particularly described on Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, Contractor will help achieve the County Behavioral Health Services' goal of helping mentally ill individuals be as functional and productive as possible in the least restrictive and least costly environments; and

WHEREAS, Contractor is specially trained, experienced, expert, and competent to perform such special services; and

WHEREAS, Pursuant to Government Code, section 31000, the County may contract for special services on behalf of public entities including County Behavioral Health Services.

NOW THEREFORE, in consideration of the covenants, conditions, agreements, and stipulations set forth herein, the parties agree as follows:

1. **Scope of Services.**
   County hereby engages Contractor to perform, and Contractor hereby agrees to perform for County, the services set forth on Exhibit A, attached hereto and incorporated herein by reference, all pursuant to the terms and conditions hereinafter set forth.

2. **Compensation.**
   Contractor shall be compensated by County for performing said services in accordance with Exhibit B, attached hereto and incorporated herein by reference.

3. **Effective Date and Duration.**
   The effective date and duration of this Contract shall be as specified on Exhibit C, attached hereto and incorporated herein by reference.

4. **General Conditions.**
   Contractor and County shall comply with all provisions of County's General Conditions, a copy of which is attached hereto as Exhibit D, and incorporated herein by reference.

5. **Special Conditions.**
   Contractor and County shall comply with the Special Conditions attached hereto as Exhibit E, and incorporated herein by reference. In the event of conflicts between the conditions of the General Conditions and the Special Conditions, the provisions of the Special Conditions shall be controlling.

6. **Business Associate Agreement.**

Contractor and County shall comply with the County's Business Associate Agreement in accordance with Exhibit F, a copy of which is attached hereto and incorporated herein by reference.

7. **Qualified Service Organization.**

Contractor shall comply with the County's Qualified Service Organization Agreement in accordance with Exhibit G, A copy of which is attached hereto and incorporated herein by reference.

8. **Other Contracts Superseded.**

The Parties agree that on the Service Date of this Contract, as defined on Exhibit C hereto, any contract between the Parties other than this one are terminated.

IN WITNESS WHEREOF County and Contractor have executed this Contract on the day and year hereinabove set forth.

Independent Contractor

By: Hani S. Boutros M.D.
Hani Boutros, M.D.

Tax ID # Held in Confidential File

COUNTY COUNSEL:

Approved as to form and legal effect.

COUNTY COUNSEL
RITA NEAL

By: _____ Dated: 6/2/2014
Deputy County Counsel

COUNTY OF SAN LUIS OBISPO
A public entity in the State of California

By: _____ Dated: _____
Chair, Board of Supervisors

ATTEST

By: _____
County Clerk and Ex-Officio Clerk
of the Board of Supervisors

CONTRACT FOR MEDICAL SERVICES
EXHIBIT A – Independent Contractor Scope of Services

SCOPE OF SERVICES

1. Scope of Services.

Pursuant to this Contract, Contractor shall provide physician services for San Luis Obispo County under the direction and control of the County and the Behavioral Health Services Medical Director or designee. Said services shall be performed at all times in strict accordance with the currently approved medical methods and practices and as specified in the Short-Doyle Act, Lanterman-Petris-Short Act, and Medi-Cal certification regulations. Further, Contractor shall comply with all policies, rules, and regulations of County, subject to State and Federal statutes covering the practice of medicine and all applicable provisions of law relating to licensing and regulations of physicians and hospitals. Services to be performed by Contractor shall include, but are not limited to:

a. Direct Services:

1) Taking and/or reviewing medical histories of clients/patients, as necessary
2) Physical examinations of clients/patients
3) The above to be provided within 24 hours of each client/patient's admission to the County Psychiatric Health Facility (PHF)
4) Sick calls, as necessary, of clients admitted to the PHF
5) Medical records review and signature of the above

b. Indirect Services:

1) Consultation to Nurse Practitioners at the County Psychiatric Health Facility
2) Co-Signature for Nurse Practitioners as required by law, at the County Psychiatric Health Facility
3) Supervision of Nurse Practitioners in the County Psychiatric Health Facility
4) Attend on-site meetings, trainings, or any other County required attendance or duty

2. Hours of Service.

Contractor is to provide services daily, if needed, described in paragraph 1 above, as authorized by the Behavioral Health Services Administrator or designee. Contractor shall devote such time to the performance of services under this Contract as may be reasonably necessary for the satisfactory performance of Contractor's obligations under this Contract. Contractor may practice his/her profession for others during those periods of time when Contractor is not performing his/her services pursuant to this Contract, as described in further detail in paragraph 10 of Exhibit E.

Contractor to provide 24-hour notice to County Medical Director for any absences which would prevent Contractor from providing regular services. County will arrange for alternate provider for services during period Contractor is absent.

3. **Office Space.**

County will provide necessary and appropriate space for Contractor at Mental Health facilities solely for the performance of the professional services under the Contract.

4. **Equipment and Supplies.**

Contractor will provide all necessary equipment and supplies not provided by the County in order to carry out the terms of the Contract. Contractor shall also be responsible for all costs and expenses incident to the performance of services for County, including but not limited to, all cost of equipment provided by Contractor, all fees, fines, licenses, bonds or taxes required of or imposed against Contractor and all other Contractor's costs of doing business. County shall not be responsible for any expenses incurred by Contractor in performing services for County. County to provide all necessary staff and support services to carry out the terms of the contract.

CONTRACT FOR MEDICAL SERVICES
EXHIBIT B – Independent Contractor Compensation

COMPENSATION

1. **Compensation.**

   a. Prior to commencement of services, contractor shall provide a valid, current taxpayer ID number to the San Luis Obispo County Auditor/Controller at: 1055 Monterey Street Room D220, San Luis Obispo, CA 93408. County shall pay to Contractor as compensation in full for all services performed by Contractor pursuant to this contract, the following rates in the following manner.

   b. Rates for medical services

      1) flat fee of one hundred six dollars and 50/100 ($106.50) per H&P (history & physical, including medical records, supervision, and consultations)
      2) flat fee of seventy one dollars ($71.00) per sick call (including medical records, supervision if necessary, and consultation if necessary)
      3) hourly rate of $71.00/hour for Anasazi training or PHF staff meetings

   c. Contractor shall maintain direct responsibility as independent contractor for payment of federal, state, and local income taxes, social security taxes, and unemployment insurance as may be applicable under this Contract. Contractor agrees to maintain all documentation referenced in the preceding sentence. Contractor is solely responsible for all reporting requirements through the California Employment Development Department.

2. **Billing.**

   a. Contractor shall submit to the County a statement of dates and number of services provided. Contractor shall not bill any person or entity other than the County for any professional services performed pursuant to this Contract. All billings and collections for Contractor's services will be the sole responsibility of the County Health Agency. All funds collected with respect to services provided within the purview of the Contractor shall be exclusive property of County and sole compensation to Contractor shall be as hereinabove provided.

   b. Contractor shall bill County for services provided under this Contract as follows: For all services in a calendar month, Contractor shall invoice County by the 10th day of the following calendar month. The invoice shall be itemized.

   c. Payments. County shall, within thirty (30) days following receipt of a correct monthly invoice, pay the undisputed charges on the invoice. If there are any disputed charges on the invoice, County shall include the explanation of the nature of the dispute with the payment for the undisputed charges. The parties shall exchange any information needed to resolve the dispute within a reasonable time.

   d. All invoices to be sent to: San Luis Obispo County Health Agency, Fiscal Department, 2180 Johnson Ave., San Luis Obispo, CA, 93401.

CONTRACT FOR MEDICAL SERVICES
EXHIBIT C – Independent Contractor

DURATION AND EFFECTIVE DATE

1. **Effective Date.**

   Contract shall be effective as of the date this Contract is signed by the Board of Supervisors for the County of San Luis Obispo, and that signator shall be the last to sign.

2. **Service Date.**

   a. Services shall commence on or after July 1, 2014, and shall end at the duration date.

   b. The Board of Supervisors expressly acknowledges that in anticipation of execution of this Contract, services within the scope of this Contract may have been provided by Contractor in reliance on assurances that this Contract would approved by the Board on June 1, 2014. These services may have been rendered from June 1, 2014 until the date the Board of Supervisors actually approves this Contract and which were intended to be in the best interest of the public health and welfare. The Board expressly authorizes payment under the terms of this Contract for services provided from June 1, 2014, until the effective date as being in the best interests of the health and welfare of the public.

   c. If any services from June 1, 2014 until the effective date have been paid by a purchase order via the County Purchasing Agent, that amount shall be deducted from this contract.

3. **Duration Date.**

   This Contract shall remain in effect from the effective date stated above until December 31, 2014 unless terminated earlier in accordance with the termination provisions contained in Exhibit D (General Conditions).

EXHIBIT D

CONTRACT FOR BEHAVIORAL HEALTH SERVICES

GENERAL CONDITIONS

1. Independent Contractor.

Contractor shall be deemed to be an independent contractor of County. Nothing in this contract shall be construed as creating an employer-employee relationship, partnership or a joint venture relationship. Nothing in this contract authorizes or permits the County to exercise discretion or control over the professional manner in which Contractor provides services. Contractor's services shall be provided in a manner consistent with all applicable standards and regulations governing such services.

2. No Eligibility for Fringe Benefits.

Contractor understands and agrees that Contractor and its personnel are not, and will not be, eligible for membership in or any benefits from any County group plan for hospital, surgical, or medical insurance, or for membership in any County retirement program, or for paid vacation, paid sick leave, or other leave, with or without pay, or for any other benefit which accrues to a County employee.

3. Warranty of Contractor for Provision of Services.

Contractor shall obtain and shall keep in full force and effect during the term of this Contract all permits, registrations and licenses necessary to accomplish the work specified in the Contract. Contractor shall furnish qualified professional personnel as prescribed by Title 9 of the California Code of Regulations, the Business and Professions Code, and all other applicable laws for the type of services rendered under this Contract. Contractor warrants that it, and each of the personnel employed or otherwise retained by Contractor, will at all times, to the extent required by law, be properly certified and licensed throughout the entire duration of this Contract under the local, state and federal laws and regulations applicable to the provision of services herein.

4. Warranty of Contractor re Compliance with all Laws.

Contractor shall keep informed of, observe, comply with, and cause all of its agents and personnel to observe and comply with all laws, rules, regulations, and administrative requirements adopted by federal, state, and local governments which in any way affect the conduct of work under this Contract. If any conflict arises between provisions of the scope of work or specifications in this Contract and any law, then the Contractor shall immediately notify the County in writing.

5. Termination for Cause.

If the County determines that there has been a material breach of this Contract by Independent Contractor that poses a threat to health and safety, the County may immediately terminate the Contract. In addition, if any of the following occur, County shall have the right to terminate this Contract effective immediately upon giving written notice to the Independent Contractor:

a. Contractor fails to perform his duties to the satisfaction of the County; or

b. Contractor fails to fulfill in a timely and professional manner his obligations under this Contract; or

c. Contractor fails to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the County; or

d. Any requisite licenses or certifications held by Contractor are terminated, suspended, reduced, or restricted; or

e. Contractor has not, to the satisfaction of the County, documented or has not sufficiently documented services provided by Contractor, which includes without limitation, failure to meet industry standards or failure to satisfy any special requirements needed by third party payors or federal or state funding agencies; or.

f. Contractor has failed or refused to furnish information or cooperate with any inspection, review or audit of Contractor's program or County's use of Contractor's program. This includes interviews or reviews of records in any form of information storage; or

g. Contractor fails to comply with any provision of the Mental Health Compliance Plan, Cultural Competency Plan, and Code of Ethics.

All obligations to provide services shall automatically terminate on the effective date of termination.

For all other material breaches of this Contract, County must give Contractor written notice setting forth the nature of the breach. If Contractor fails to remedy said breach within ten (10) days from the date of the written notice, County may terminate the Contract. Contractor shall thereafter have no further rights, powers, or privileges against County under or arising out of this Contract.

In the event a breach does not result in termination, but does result in costs being incurred by County, said costs shall be charged to and paid by Independent Contractor, which costs may include, but are not limited to, costs incurred by County in investigating and communicating with Contractor regarding said breach, including staff time.

6. Termination for Convenience.

Either party may terminate this Contract at any time by giving the other party at least 30 calendar days' written notice of termination for convenience ("Notice of Termination for Convenience"). Termination for convenience shall be effective at 11:59 p.m., Pacific Standard Time, on the intended date for termination (the "Termination Date"). The terminating party shall deliver to the other party a notice specifying the date upon which such termination will become effective, which shall be at least 30 calendar days after the date of the notice.

Termination for convenience shall have no effect upon the rights and obligations of the parties arising out of any services, which were provided prior to the effective date of such termination. Contractor shall be paid for all work satisfactorily completed prior to the effective date of termination. After receiving a Notice of Termination for Convenience, Contractor shall, unless directed by County, place no further subcontracts for services or

materials, terminate all subcontracts to the extent they relate to the work terminated, and settle all outstanding liabilities arising from the termination of subcontracts.

7. Power to Terminate.

Termination of this Contract may be effectuated by the Health Agency Director without the need for action, approval, or ratification by the Board of Supervisors.

Neither this section nor Section 6 of this Exhibit apply to a decision by either party not to exercise an option to renew this contract.

8. Non-Assignment of Contract.

Inasmuch as this Contract is intended to secure the specialized services of the Contractor, Contractor shall not delegate, assign, or otherwise transfer in whole or in part its rights or obligations under this contract without the prior written consent of County. Any such assignment, transfer, or delegation without the County's prior written consent shall be null and void.

9. Entire Agreement and Modifications.

This Contract supersedes all previous contracts between the parties hereto on the same subject matter and constitutes the entire understanding of the parties hereto on the subject matter of this Contract. Contractor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Contractor specifically acknowledges that in entering into and executing this contract, Contractor relies solely upon the provisions contained in this Contract and no others.

10. Governing Law and Venue.

This Contract shall be governed by, and construed in accordance with, the laws of the State of California, without regard to its conflict of laws provisions. All of the parties' rights and obligations created hereunder shall be performed in the County of San Luis Obispo, State of California and such County shall be the venue for any action or proceeding that may be brought, or arise out of, this contract.

11. Waiver.

No delay or failure on the part of any party hereto in exercising any right, power or privilege under this Contract shall impair any such right power or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude the further exercise of such right power or privilege or the exercise of any other right, power or privilege. No waiver shall be valid unless made in writing and signed by the party against whom enforcement of such waiver is sought and then only to the extent expressly specified therein.

12. Severability.

The Contractor agrees that if any provision of this Contract is found to be invalid, illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Upon determination that any term or provision is invalid, illegal or unenforceable, the parties shall negotiate in good faith to modify this contract so as to affect the original intent of the parties as closely as possible.

13. Nondiscrimination.

Contractor agrees that it will abide by all Federal and State labor and employment laws and regulations pertaining to unlawful discrimination prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sexual orientation, disability or national origin, and those conditions contained in Presidential Executive Order number 11246.

14. Notices.

All notices given or made pursuant hereto shall be in writing and shall be deemed to have been duly given if delivered personally, mailed by registered or certified mail (postage paid, return receipt requested) or sent by a nationally recognized overnight courier (providing proof of delivery) to the parties at the following addresses or sent by electronic transmission to the following facsimile numbers (or at such other address or facsimile number for a party as shall be specified by like notice):

Anne Robin, LMFT
Behavioral Health Services Administrator
2180 Johnson Avenue
San Luis Obispo, CA 93401-4535

And to Contractor at:

Hani Boutros, M.D.
5250 Hillcrest Drive
Cambria, CA 93428

Any such notice shall be deemed to have been received if: (a) in the case of personal delivery or facsimile transmission with confirmation retained, on the date of such delivery or transmission; (b) in the case of nationally recognized overnight courier, on the next business day after the date sent; (3) in the case of mailing, on the third business day following posting.

15. Headings.

The headings contained in this Contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this Contract.

16. Conflict of Interest.

Contractor acknowledges that Contractor is aware of and understands the provisions of Sections 1090 et seq. and 87100 et seq. of the Government Code, which relate to conflict of interest of public officers and employees. Contractor certifies that Contractor is unaware of any financial or economic interest of any public officer or employee of the County relating to this Contract. Contractor agrees to comply with applicable requirements of Government Code Section 87100 et seq. during the term of this Contract.

17. Delegation of Authority.

The component of services covered in this Contract and the related compensation rates are anticipated types and rates for services. Accordingly, the Board of Supervisors delegates to the Behavioral Health Administrator the authority to amend this Contract to exchange, delete, or add to the types of services and/or to increase compensation to Contractor up to the change order limits specified in the County's Contracting for Services Policy.

Any amendment made pursuant to a delegation of authority will only be effective if, prior to the commencement of services or extension of said Contract, the amendment is memorialized in writing, is approved by County Counsel, and is signed by the Behavioral Health Administrator and does not exceed the change order limits. This delegation of authority is expressly limited as stated herein.

The Board of Supervisors expressly delegates to the Health Agency Director or his designee the authority to decide whether to exercise the option to renew this agreement for one year pursuant to Exhibit C. The Health Agency Director is permitted to agree to any rate change associated with a renewal of this contract so long as that rate change falls within the change order limits of the County's Contracting for Services Policy.

EXHIBIT E

CONTRACT FOR BEHAVIORAL HEALTH SERVICES

SPECIAL CONDITIONS

1. Compliance with Health Care Laws.

Contractor agrees to abide by all applicable local, State and Federal laws, rules, regulations, guidelines, and directives for the provision of services hereunder, including without limitation, the applicable provisions of the Civil Code, Welfare and Institutions Code, the Health and Safety Code, the Family Code, the California Code of Regulations, the Code of Federal Regulations, and the Health Insurance Portability and Accountability Act. This obligation includes, without limitation, meeting delivery of service requirements, guaranteeing all client's rights provisions are satisfied, and maintaining the confidentiality of patient records.

2. No Discrimination In Level Of Services.

As a condition for reimbursement, Contractor shall provide to and ensure that clients served under this Contract receive the same level of services as provided to all other clients served regardless of status or source of funding.

3. Compliance Plan.

Contractor shall read and acknowledge receipt of the Mental Health Compliance Plan and Code of Ethics ("Compliance Plan") by signing the Compliance Plan and returning it to Mental Health Contracts Coordinator for inclusion in the contracts file. The Compliance Plan includes policies and procedures that are designed to prevent and detect fraud, waste and abuse in federal health care programs, as required by Section 6032 of the Deficit Reduction Act ("DRA"). Failure to comply with any Compliance Plan provision, including without limitation, DRA compliance provisions is a material breach of this Contract and grounds for termination for cause.

4. Compliance with County Cultural Competence Plan.

Contractor will meet cultural, ethnic and linguistic backgrounds of the clients served, in accordance with the County Cultural Competence Plan, including access to services in the appropriate language and/or reflecting the appropriate culture or ethnic group. Contractor will use professional skills, behaviors, and attitudes in its system that ensures that the system, or those being seen in the system, will work effectively in a cross cultural environment.

5. Confidentiality.

Contractor shall abide by all applicable local, State and federal laws, rules, regulations, guidelines, and directives regarding the confidentiality and security of patient information, including without limitation, Sections14100.2 and 5328 et seq. of the Welfare and Institutions Code Sections 14100 and 5328 et seq., Section 431.300 et seq. of Title 42 of the Code of Federal Regulations, the Health Insurance Portability and Accountability Act (HIPAA) and its implementing regulations, including but not limited to Title 45 CFR

Parts 142, 160, 162 and 164, and the provisions of Exhibit F, and the Business Associate Agreement attached to this Contract and incorporated by this reference. Any conflict between the terms and conditions of this Contract and the Business Associate Agreement are to be read so that the more legally stringent terms and obligations of the Contractor shall control and be given effect. Contractor shall not disclose, except as otherwise specifically permitted by the Contract or authorized by the client/patient or the law, any such identifying information without prior written authorization in accordance with State and Federal laws.

6. License Information.

Contractor agrees that all facilities and staff including, but not limited to, all professional and paraprofessional staff used to provide services will maintain throughout the term of this Contract, such qualifications, licenses and/or permits as are required by state or local law. Contractor shall provide County a list of all licensed persons who may be providing services under this Contract. The list shall include the name, title, professional degree, license number, and NPI number.

7. Records.

Contractor shall keep complete and accurate records of the services performed, program compliance and outcome measurements pursuant to the Contract and shall make such records available to County within five (5) working days of receipt of a request for inspection.

8. Insurance Provided by County.

Contractor shall be covered under San Luis Obispo County's professional and comprehensive liability insurance policies for those services performed pursuant to this Contract, subject to any exceptions listed in said policies. Said insurance shall not apply, however, to services performed by Contractor outside the scope of this contract. As an independent Contractor and/or professional corporation, Contractor acknowledges that he is not covered under the County's worker compensation policy.

9. Indemnification.

Contractor shall defend, indemnify and hold harmless the County, its Board of Supervisors, officers and employees from any and all claims, demands, damages, costs, expenses, judgments, attorney fees, experts' fees and expenses, liabilities or other losses that may be asserted by any person or entity, including Contractor, and that arise out of or are in any way connected with this Contract, whether in tort, contract, or otherwise. The obligation to indemnify shall be effective and shall extend to all such claims and losses, in their entirety. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the County, its officers and employees.

10. Other Employment.

Contractor shall retain the right to provide medical services at another facility or to operate a separate private practice; subject, however, to the conditions that:

a. No such private practice shall be conducted at County Health Agency facilities other than to the extent that staff privileges are utilized in the same manner as any other private practitioner;
b. Such other employment shall not conflict with the duties, nor the time periods within which to perform those duties, described in this Contract;

c. The insurance coverage provided herein is in no way applicable to any other employment or services not expressly set forth in this Contract.

11. Referrals.

As long as the County and the Contract Employee have a valid Contract in effect, Contract Employee is not to accept as referrals into his private practice any agencies, organizations or individuals that he may have contacted as a representative of Behavioral Health Services.

12. Copyright.

Any reports, documents, or other materials produced in whole or part under this Contract shall be the property of the County and shall not be subject to an application for copyright by or on behalf of Contractor without the prior written approval of the County.

13. Screening for Inspector Generals' Excluded Provider List.

Contractor shall provide documented screening to show that he/she is not listed on the Excluded Provider List of the Office of the Inspector General and the Medi-Cal Excluded List of Providers during contract duration. Documentation shall be forwarded to the Behavioral Health Administration for inclusion in the contract file.

14. Past Services Included.

The County Board of Supervisors specifically acknowledges that in anticipation of execution of this contract services within the scope of this contract may have been provided in reliance on assurances that this contract would be entered into. These services may have been rendered from June 1, 2014, to the date the Board of Supervisors executed this contract and which were intended in the best interest of the public health and welfare. The Board of Supervisors expressly authorizes payment for those services at the same rates and under the same terms and conditions as stated in this contract.

EXHIBIT F

CONTRACT FOR BEHAVIORAL HEALTH SERVICES

BUSINESS ASSOCIATE AGREEMENT

1. General Provisions and Recitals.

a. All terms used, but not otherwise defined below herein, have the same meaning as in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and their implementing regulations at 45 CFR Parts 160 through 165 ("HIPAA regulations") (collectively along with state law privacy rules as "HIPAA Laws") as they may exist now or be hereafter amended.

b. A business associate relationship under the HIPAA laws between Contractor and County arises to the extent that Contractor performs, or delegates to subcontractors to perform, functions or activities on behalf of County under the Agreement.

c. County wishes to disclose to Contractor certain information pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI"), as defined by the HIPAA laws, to be used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the Agreement.

d. The parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement in compliance with the applicable standards, implementation specifications, and requirements of the HIPAA laws.

e. The HIPAA Privacy and Security rules apply to Contractor in the same manner as they apply to County. Contractor agrees therefore to be in compliance at all times with the terms of this Business Associate Agreement and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement.

2. Definitions.

a. "Administrative Safeguards" are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of Contractor's workforce in relation to the protection of that information.

b. "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA laws which compromise the security or privacy of the PHI.

i. Breach excludes:

a. Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of Contractor or County, if such acquisition, access, or use was made in good faith and within the scope of authority and does

not result in further use or disclosure in a manner not permitted under the Privacy Rule.

b. Any County PHI that has been inadvertently disclosed shall not be further used or disclosed except in compliance with law.

c. A disclosure of PHI where Contractor or County has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

ii. Except as provided in paragraph (a) of this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach unless Contractor demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;

b. The unauthorized person who used the PHI or to whom the disclosure was made;

c. Whether the PHI was actually acquired or viewed; and

d. The extent to which the risk to the PHI has been mitigated.

c. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

d. "Physical Safeguards" are physical measures, policies, and procedures to protect Contractor's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion required by the HIPAA laws.

e. "County PHI" means either: (1) PHI disclosed by County to Contractor; or (2) PHI created, received, maintained, or transmitted by Contractor pursuant to executing its obligations under the Contract.

3. Obligations and Activities of Contractor as a Business Associate.

a. Contractor agrees not to use or further disclose County PHI other than as permitted or required by this Business Associate Agreement or as required by law.

b. Contractor agrees to use appropriate safeguards and other legally-required safeguards to prevent use or disclosure of County PHI other than as provided for by this Business Associate Agreement.

c. Contractor agrees to comply with the HIPAA Security Rule at Subpart C of 45 CFR Part 164 with respect to electronic County PHI.

d. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a Use or Disclosure of County PHI by Contractor in violation of the requirements of this Business Associate Agreement or HIPAA laws.

e. Contractor agrees to report to County immediately any Use or Disclosure of PHI not provided for by this Business Associate Agreement of which Contractor becomes aware. Contractor must report Breaches of Unsecured PHI in accordance with the HIPAA laws.

f. Contractor agrees to ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of Contractor agree to the same restrictions and conditions that apply through this Business Associate Agreement to Contractor with respect to such information.

g. Contractor agrees to provide access, within ten (10) calendar days of receipt of a written request by County, to PHI in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under 45 CFR § 164.524 or any other provision of the HIPAA laws.

h. Contractor agrees to make any amendment(s) to PHI in a Designated Record Set that County directs or agrees to pursuant to 45 CFR § 164.526 at the request of County or an Individual, within fifteen (15) calendar days of receipt of said request by County. Contractor agrees to notify County in writing no later than ten (10) calendar days after said amendment is completed.

i. Contractor agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of, County available to County and the Secretary in a time and manner as determined by County or as designated by the Secretary for purposes of the Secretary determining County's compliance with the HIPAA Privacy Rule.

j. Contractor agrees to document any Disclosures of County PHI or Contractor creates, receives, maintains, or transmits on behalf of County, and to make information related to such Disclosures available as would be required for County to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

k. Contractor agrees to provide County or an Individual, as directed by County, in a time and manner to be determined by County, any information collected in accordance with the Agreement, in order to permit County to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with the HIPAA laws.

l. Contractor agrees that to the extent Contractor carries out County's obligation under the HIPAA Privacy and/or Security rules Contractor will comply with the requirements of 45 CFR Part 164 that apply to County in the performance of such obligation.

m. Contractor shall work with County upon notification by Contractor to County of a Breach to properly determine if any Breach exclusions exist.

4. Security Rule.

a. Contractor shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR § 164.308, § 164.310, § 164.312, and § 164.316 with respect to electronic County PHI or Contractor creates, receives, maintains, or transmits on behalf of County. Contractor shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

b. Contractor shall ensure that any Subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of Contractor agree through a contract with Contractor to the same restrictions and requirements contained this Business Associate Agreement.

c. Contractor shall report to County immediately any Security Incident of which it becomes aware. Contractor shall report Breaches of Unsecured PHI in accordance with Paragraph E below and as required by 45 CFR § 164.410.

5. Breach Discovery and Notification.

a. Following the discovery of a Breach of Unsecured PHI , Contractor shall notify County of such Breach, however both parties agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR § 164.412.

i. A Breach shall be treated as discovered by Contractor as of the first day on which such Breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor.

ii. Contractor shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other agent of Contractor, as determined by federal or state common law of agency.

iii. Contractor's notification may be oral, but shall be followed by written notification within 24 hours of the oral notification.

b. Notices shall be sent to the following address:

Anne Robin, LMFT
Behavioral Health Administrator
2180 Johnson Avenue
San Luis Obispo, CA 93401-4535

c. Contractor's notification shall include, to the extent possible:

i. The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Contractor to have been, accessed, acquired, used, or disclosed during the Breach;

ii. Any other information that County is required to include in the notification to Individual under 45 CFR §164.404 (c) at the time Contractor is required to notify County or promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 CFR § 164.410 (b) has elapsed, including:

1. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

2. A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

3. Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;

4. A brief description of what Contractor is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and
5. Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.

d. County may require Contractor to provide notice to the Individual as required in 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the County.

e. In the event that Contractor is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, Contractor shall have the burden of demonstrating that Contractor made all notifications to County consistent with this Paragraph E and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.

f. Contractor shall maintain documentation of all required notifications of a Breach or its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

g. Contractor shall provide County all specific and pertinent information about the Breach, including the information listed above, if not yet provided, to permit County to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as practicable, but in no event later than ten (10) calendar days after Contractor's initial report of the Breach to County.

h. Contractor shall continue to provide all additional pertinent information about the Breach to County as it may become available, in reporting increments of five (5) business days after the last report to County. Contractor shall also respond in good faith to any reasonable requests for further information, or follow-up information after report to County, when such request is made by County.

i. Contractor shall bear all expense or other costs associated with the Breach and shall reimburse County for all expenses County incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation or other costs associated with addressing the Breach.

j. Contractor shall train and use reasonable measures to ensure compliance with the requirements of this Exhibit by employees who assist in the performance of functions or activities on behalf of County under this Contract and use or disclose protected information; and discipline employees who intentionally violate any provisions.

6. Permitted Use and Disclosure by Contractor.

a. Contractor may use or further disclose County PHI as necessary to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by County except for the specific Uses and Disclosures set forth below.

i. Contractor may use County PHI, if necessary, for the proper management and administration of Contractor.

ii. Contractor may disclose PHI County discloses to Contractor for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor, if:

1. The Disclosure is required by law; or
2. Contractor obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person and the person immediately notifies Contractor of any instance of which it is aware in which the confidentiality of the information has been breached.

iii. Contractor may use or further disclose County PHI to provide Data Aggregation services relating to the Health Care Operations of Contractor.

b. Contractor may use County PHI, if necessary, to carry out legal responsibilities of Contractor.

c. Contractor may use and disclose County PHI consistent with the minimum necessary policies and procedures of County.

d. Contractor may use or disclose County PHI as required by law.

7. Obligations of County.

a. County shall notify Contractor of any limitation(s) in County's notice of privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Contractor's Use or Disclosure of PHI.

b. County shall notify Contractor of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect Contractor's Use or Disclosure of PHI.

c. County shall notify Contractor of any restriction to the Use or Disclosure of PHI that County has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Contractor's Use or Disclosure of PHI.

d. County shall not request Contractor to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by County.

8. Business Associate Termination.

a. Upon County's knowledge of a material breach or violation by Contractor of the requirements of this Business Associate Agreement, County shall:

i. Provide an opportunity for Contractor to cure the material breach or end the violation within thirty (30) business days; or

ii. Immediately terminate the Agreement, if Contractor is unwilling or unable to cure the material breach or end the violation within (30) calendar days, provided termination of the Agreement is feasible.

b. Upon termination of the Agreement, Contractor shall either destroy or return to County all PHI Contractor received from County or Contractor created, maintained, or received on behalf of County in conformity with the HIPAA Privacy Rule.

i. This provision shall apply to all PHI that is in the possession of Subcontractors or agents of Contractor.

ii. Contractor shall retain no copies of the PHI.

iii. In the event that Contractor determines that returning or destroying the PHI is not feasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon determination by County that return or destruction of PHI is infeasible, Contractor shall extend the protections of this Business Associate Agreement to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for as long as Contractor maintains such PHI.

c. The obligations of this Business Associate Agreement shall survive the termination of the Contract.

EXHIBIT G

CONTRACT FOR BEHAVIORAL HEALTH SERVICES

QUALIFIED SERVICE ORGANIZATION AGREEMENT

1. Contractor agrees that it is a Qualified Service Organization to the County within the meaning of 42 Code of Federal Regulations sections 2.11 and 2.12.

2. Contractor acknowledges that in receiving, storing, processing or otherwise dealing with any patient records from County or through performing its obligations per this contract the programs, Contractor is fully bound by 42 Code of Federal Regulations Part 2 and analogous state laws.

3. Contractor further agrees that if necessary, it will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by 42 Code of Regulations Part 2.