CONTRACT FOR PSYCHIATRIST 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 David K. Fennell, M.D. (hereafter "Contract Employee"),

WITNESSETH

WHEREAS, County has a need for Psychiatric 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, Contract Employee 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, Contract Employee 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 Contract Employee to perform, and Contract Employee 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**.
   Contract Employee 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**.
   Contract Employee 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**.
   Contract Employee 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.

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

Contract Employee

By: _____
David K. Fennell, M.D.

Tax ID # Held in Confidential File

COUNTY COUNSEL:
Approved as to form and legal effect.

RITA NEAL
COUNTY COUNSEL

By: _____ Dated: 11/3/15
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 PSYCHIATRIST SERVICES
EXHIBIT A – Contract Employee

SCOPE OF SERVICES

1. Scope of Services.

Pursuant to this Contract, Contract Employee shall provide up to nine hundred sixty hours (960) of psychiatric services for San Luis Obispo County under the direction and control of the County and of the Behavioral Health Services Medical Director or designee. Said services shall be performed at all times in strict accordance with the currently approved psychiatric methods and practices and as specified in the Short-Doyle Act, Lanterman-Petris-Short Act, and Medi-Cal certification regulations. Further, Contract Employee 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 Contract Employee shall include, but are not limited to:

a. Direct Services:

1) Direct treatment of selected clients/patients.
2) Medication evaluations as requested by the non-medical staff.
3) Diagnostic evaluations upon the request of the non-medical staff.

b. Indirect Services:

1) Consultation to Mental Health Services staff.
2) Staff training with Mental Health Services staff, student interns, and volunteers.
3) Participation in Utilization Reviews to assure the appropriateness of treatment plans.
4) Participation in the evaluation of all treatment planning for clients/patients entering Mental Health Services programs and the responsibility for the execution of treatment plans.
5) Participation in the Peer Review Procedure.
6) Consultation to other agencies regarding the treatment and referral of adults and youth on a limited basis.
7) Collaboration with Designated Program Supervisors, Clinical Program Managers, and Division Managers.

2. Hours of Service.

Contract Employee is to provide services 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 Contract Employee's obligations under this Contract. Contract Employee may practice his/her profession for others during those periods of time when Contract Employee is not performing

his/her services pursuant to this Contract, as described in further detail in Paragraph 10 of Exhibit E.

3. **Office Space.**

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

4. **Equipment and Supplies.**

Contract Employee will provide all necessary equipment and supplies not provided by the County in order to carry out the terms of the Contract. County to provide all necessary staff and support services to carry out the terms of the contract.

CONTRACT FOR PSYCHIATRIC SERVICES
EXHIBIT B – Contract Employee

COMPENSATION

1. Compensation.

Payments for services as performed by Contract Employee, pursuant to this Contract, shall be as follows:

- Regular Shift hours worked - One hundred ten dollars ($110.00) per hour and pro-rated for any portion thereof;
- On Call Shifts - One hundred sixty-nine dollars and thirty-three cents ($169.33) per 8-hour shift;
- Call Back hours worked - One hundred ten dollars ($110.00) per hour and prorated for any portion thereof.

County shall pay Contract Employee within the regularly scheduled biweekly payroll cycle for County employees, payments for each week to be made in the next possible cycle after approval of the statement of services and hours as submitted through the County payroll system. County shall not pay for services performed by Contract Employee which are not authorized under this Contract. County shall only pay for such additional services if both parties agree in advance to such services and payment.

2. Billing.

Contract Employee shall submit to the County, on a weekly basis, a timesheet of dates and numbers of hours of hourly services as provided through the County's payroll system. Partial hours are to be rounded up to the nearest 15-minute increment within the County's payroll system. Contract Employee 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 such services will be the sole responsibility of the County. All funds collected with respect to services provided within the purview of the Contract shall be exclusive property of County and sole compensation to Contract Employee shall be as hereinabove provided. County shall not pay for Contract Employee's meals, lodging, or travel expenses, except as provided for in Exhibit E, paragraph 8..

3. Withholding from Contract Employee's Compensation.

County shall withhold from Contract Employee and pay to the United States Internal Revenue Service and the California Franchise Tax Board those amounts of federal and state withholding taxes which County would be obligated to withhold and pay if Contract Employee were an employee of County. Contract Employee's compensation shall be reported at the end of the year using Form W-2.

County shall withhold from Contract Employee's compensation and pay to the appropriate federal agency those amounts which County would be obliged to withhold and pay under the Federal Insurance Contributions Act (FICA) as Contract Employee is in the status of being a Contract Employee with the County. County shall also pay to the appropriate federal agency those amounts which County is

obligated to pay as an employer under FICA, the same as if Contract Employee were a civil service employee of the County.

County shall pay to the appropriate federal agency those amounts which County would be obligated to pay as an employer under the Federal Employment Tax Act the same as if Contract Employee were a civil service employee of County. County shall, at its sole expense, provide Worker's Compensation coverage with respect to Contract Employee's services under this Contract. County defines the total payable under the terms of this Contract as considered to be payment in full and Contract Employee understands and warrants that he/she shall not be entitled to any other compensation and/or benefits. County and Contract Employee agree that Contract Employee's status is that of a Contract Employee entitled only to the Contractual rights specified in this Contract and is not entitled to any other rights afforded to employees of the County, including those who are civil service employees, as described more fully in paragraph 2 of Exhibit D (General Conditions).

CONTRACT FOR PSYCHIATRIC SERVICES
EXHIBIT C – Contract Employee

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.** Services shall commence on or after January 1, 2016, and shall end at the duration date.

   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 Contract Employee in reliance on assurances that this Contract would be approved by the Board on January 1, 2016. These services may have been rendered from January 1, 2016 until the date of 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 January 1, 2016, until the effective date as being in the best interests of the health and welfare of the public.

3. **Duration Date.** This Contract shall remain in effect from the effective date stated above until December 31, 2016, unless terminated earlier in accordance with the termination provisions contained in Exhibit D (General Conditions).

CONTRACT FOR PSYCHIATRIC SERVICES
EXHIBIT D – Contract Employee

GENERAL CONDITIONS

1. **Contract Employee:**

Contract Employee shall be deemed to be a contract employee of the County. Nothing in this Contract shall be construed as creating a civil service employer-employee relationship or a joint venture relationship. The services to be provided by Contract Employee shall be provided in a manner consistent with all applicable standards and regulations of the profession governing such services.

2. **No Eligibility for Fringe Benefits.**

Contract Employee understands and agrees that s/he is 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 holiday leave, paid sick leave, or other leave, with or without pay, collective bargaining rights, grievances, appeals to the Civil Service Commission or for any other benefit which accrues to a County employee. The only performance and rights due Contract Employee are those specifically stated in this Contract.

3. **Warranty of Contract Employee.**

Contract Employee warrants that Contract Employee will at all times, to the extent required by law, be properly certified and licensed under the local, state and federal laws and regulations applicable to the provision of services herein. Contract Employee agrees to provide County with written proof that he/she meets all accreditation standards, upon County's request. Contract Employee warrants that he/she has not been the subject of a formal accusation and/or disciplinary action before the Medical Board of California or similar board in another state. Contract Employee is responsible for attending and successfully completing continuing educational classes, seminars, correspondence courses, and other continuing education programs, as required, for the purpose of maintaining Contract Employee's license to practice medicine in the State of California during the term of this Contract.

4. **Termination for Cause.**

If the County determines that there has been a material breach of this Contract by Contract Employee 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 Contract Employee:

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

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

c. Contract Employee 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 Contract Employee are terminated, suspended, reduced, or restricted; or

e. Contract Employee has not, to the satisfaction of the County, documented or has not sufficiently documented services provided by Contract Employee, 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. Contract Employee has failed or refused to furnish information or cooperate with any inspection, review or audit of Contract Employee's program or County's use of Contract Employee's program. This includes interviews or reviews of records in any form of information storage; or

g. Contract Employee fails to comply with any provision of the Mental Health Compliance 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 Contract Employee written notice setting forth the nature of the breach. If Contract Employee fails to remedy said breach within ten (10) days from the date of the written notice, County may terminate the Contract. Contract Employee 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 Contract Employee, which costs may include, but are not limited to, costs incurred by County in investigating and communicating with Contract Employee regarding said breach, including staff time.

5. 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. Contract Employee shall be paid for all work satisfactorily completed prior to the effective date of termination. After receiving a Notice of Termination for Convenience, Contract Employee 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.

6. **Non-Assignment of Contract.**

Inasmuch as this Contract is intended to secure the specialized services of the Contract Employee, Contract Employee shall not delegate, assign, or otherwise transfer in whole or in part his/her 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.

7. **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. Contract Employee 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. Contract Employee specifically acknowledges that in entering into and executing this contract, Contract Employee relies solely upon the provisions contained in this Contract and no others.

8. **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. Any action brought to enforce the terms of this Contract shall be filed and shall remain in a court of competent jurisdiction in the County of San Luis Obispo.

9. **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.

10. **Severability.**

The Contract Employee 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.

11. **Nondiscrimination.**

Contract Employee agrees that it will abide by all federal and state labor and employment laws and regulations pertaining to unlawful discrimination and harassment, and shall not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color ancestry, religious creed, national origin, physical disability, mental disability, medical condition, age, marital status, and denial of family leave care.

12. 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 the Contract Employee at:
David K. Fennell, M.D.
516 Platino Lane
Arroyo Grande, CA 93420

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; (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.

13. 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.

14. Conflict of Interest.

Contract employee acknowledges that Contract Employee is familiar with 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. Contract Employee certifies that Contract Employee is unaware of any financial or economic interest relating to this Contract. Contract Employee agrees to comply with the requirements of Government Code section 87100 et seq. during the term of this Contract.

CONTRACT FOR PSYCHIATRIC SERVICES
EXHIBIT E – Contract Employee

SPECIAL CONDITIONS

1. **Compliance with Health Care Laws.**

Contract Employee 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 payment, Contract Employee shall provide to and ensure that all 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.**

Contract Employee 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.**

Contract Employee 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.

5. **Confidentiality.**

Contract Employee 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, Sections 14100.2 and 5328 et.seq. of the Welfare and Institutions Code, 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.

6. **License Information.**

Contract Employee shall provide County a document that lists Contract Employee's title, professional degree, license number, and National Provider Number upon contract signing, and represents and agrees that Contract Employee's license to

practice medicine shall not be suspended, terminated, reduced or restricted at any time during the term of this Contract and if any one of these vents occurs, Contract Employee shall notify the County's Behavioral Health Services Administrator according to the notice provisions set forth in Exhibit D, paragraph 12.

7. Records.

Contract Employee shall keep complete and accurate records of the services performed, including maintaining clinical records for each recipient of services, program compliance and outcome measurements pursuant to the requirements of this Contract, and state and federal law, and shall make such records available to County within five (5) working days of receipt of a request for inspection.

8. Accounting for Travel and Lodging.

In the event that the scope of services expressly requires travel and lodging, Contract Employee shall secure prior written approval from the Behavioral Services Administrator and the travel shall not exceed the levels allowed for County employees on official business as set forth in the County Travel Policy which can be found on the Auditor-Controller's website.

9. Insurance Provided by County.

Contract Employee shall be covered under County professional and comprehensive liability insurance policies for those services performed pursuant to this Contract, subject to any exceptions listed in that policy.

10. Other Employment.

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

No such private practice shall be conducted at Behavioral Health facilities other than to the extent that staff privileges are utilized in the same manner as any other private practitioner;

Such other employment shall not conflict with the duties, or the time periods within which to perform those duties as described in this Contract;

The insurance coverage provided herein is in no way applicable and does not cover any other employment or services provided by Contract Employee which are outside the scope of and not related directly to 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 Contract Employee without the prior written approval of the County.

13. Screening for Inspector Generals' Excluded Provider List.

Contract Employee shall provide documented screening to show that he/she is not listed on the Excluded Provider List of the Office of the Inspector General at the time of hire and a monthly basis. Documentation shall be forwarded to the Mental Health Contracts Coordinator for inclusion in the contract file.

14. Mandated Reporter Requirements.

Contract Employee acknowledges and agrees to comply with mandated reporter and duty to report requirements as required by the federal Health Insurance Portability and Accountability Act (HIPAA) and state laws, including, without limitation, compliance and the Child Abuse and Neglect Reporting Act (Penal Code section 11164 through 11174). Tarasoff, Penal Code section 11160 (reporting injuries by firearm or assaultive or abusive conduct), sexual assault and rape, and compliance with the Elder Abuse and Dependent Adult Civil Protection Act (Welfare and Institutions Code sections 15600-15669).