

**Sierra County  
Board of Supervisors'  
Agenda Transmittal &  
Record of Proceedings**

|   |   |
|---|---|
| <b>MEETING DATE:</b><br>October 6, 2020 | <b>TYPE OF AGENDA ITEM:</b><br><input type="checkbox"/> Regular <input type="checkbox"/> Timed<br><input checked="" type="checkbox"/> Consent |
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|--|
| <b>DEPARTMENT:</b> Behavioral Health<br><b>APPROVING PARTY:</b> Lea Salas, Administrative Director<br><b>PHONE NUMBER:</b> (530)993-6746 |
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**AGENDA ITEM:** Professional Services Agreement between Progress House, Inc. and Sierra County for Substance Use Disorder Services

**SUPPORTIVE DOCUMENTS ATTACHED:**  Memo  Resolution  Agreement  Other

**BACKGROUND INFORMATION:** Please see attached memo

**FUNDING SOURCE:** 0515670

**GENERAL FUND IMPACT:** No General Fund Impact

**OTHER FUND:** 5680

**AMOUNT:** \$40,500.00 Annually

|  |   |
|--|---|
| <b>ARE ADDITIONAL PERSONNEL REQUIRED?</b><br><br><input type="checkbox"/> Yes, -- --<br><input checked="" type="checkbox"/> No | <b>IS THIS ITEM ALLOCATED IN THE BUDGET?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No<br><br><b>IS A BUDGET TRANSFER REQUIRED?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|--|---|

**SPACE BELOW FOR CLERK'S USE**

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|---|---|---|
| <b>BOARD ACTION:</b><br><input type="checkbox"/> Approved<br><input type="checkbox"/> Approved as amended<br><input type="checkbox"/> Adopted<br><input type="checkbox"/> Adopted as amended<br><input type="checkbox"/> Denied<br><input type="checkbox"/> Other<br><input type="checkbox"/> No Action Taken | <input type="checkbox"/> Set public hearing<br>For: _____<br><input type="checkbox"/> Direction to: _____<br><input type="checkbox"/> Referred to: _____<br><input type="checkbox"/> Continued to: _____<br><input type="checkbox"/> Authorization given to: _____<br>_____ | Resolution 2020- _____<br>Agreement 2020- _____<br>Ordinance _____<br>Vote:<br>Ayes:<br>Noes:<br>Abstain:<br>Absent:<br><input type="checkbox"/> By Consensus |
|---|---|---|

**COMMENTS:**  
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\_\_\_\_\_  
CLERK TO THE BOARD \_\_\_\_\_  
DATE

# Memorandum

To: Sierra County Board of Supervisors

From: Lea Salas, Administrative Director of Behavioral Health

Reference: Agenda Item

Date of memo: September 16, 2020

Date of Board Meeting: October 6, 2020

Requested Action: Professional Services Agreement between Progress House, Inc. and Sierra County for Substance Use Disorder Services.

Mandated by:

## Funding

Budgeted? Yes  No

|            |             |   |
|------------|-------------|---|
| Revenue    | \$40,500.00 | Substance Abuse Prevention and Treatment (SAPT), Behavioral Health Realignment, Drug Medi-Cal |
| Expenses   | \$40,500.00 | Substance Abuse Prevention and Treatment (SAPT), Behavioral Health Realignment, Drug Medi-Cal |
| Difference | 0           |   |

Background Information: This agreement is a renewal from previous years. Progress House provides residential, recovery residence, and outpatient treatment for Sierra County residents that have substance use disorders and meet the criteria for this level of care. The maximum amount of this agreement has decreased \$10,000.00 from last year.

This year Sierra County will bill Drug Medi-Cal for those services that are eligible for this funding (ie: outpatient services and perinatal services).

Potential Issues to consider: None

Alternatives or Impacts of disapproval: Sierra County would not meet state guidelines for providing this level of care.

**AGREEMENT FOR  
PROFESSIONAL  
SERVICES**

THIS AGREEMENT for Professional Services ("Agreement") is made as of the Agreement Date set forth below by and between the County of Sierra, a political subdivision of the State of California ("the COUNTY"), and

PROGRESS HOUSE, INC.  
"CONTRACTOR"

In consideration of the services to be rendered, the sums to be paid, and each and every covenant and condition contained herein, the parties hereto agree as follows:

**OPERATIVE PROVISIONS**

**1. SERVICES.**

The CONTRACTOR shall provide those services described in Attachment "A", Provision A-1. CONTRACTOR shall provide said services at the time, place and in the manner specified in Attachment "A", Provisions A-2 through A-3.

**2. TERM.**

Commencement Date: July 1, 2020

Termination Date: June 30, 2021

**3. PAYMENT.**

COUNTY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to CONTRACTOR for services rendered pursuant to this Agreement. CONTRACTOR shall submit all billings for said services to COUNTY in the manner specified in Attachment "B".

**4. FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF COUNTY.**

CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement, except as provided in this paragraph. COUNTY shall furnish CONTRACTOR only those facilities, equipment, and other materials and shall perform those obligations listed in Attachment "A.4".

**5. ADDITIONAL PROVISIONS.**

Those additional provisions unique to this Agreement are set forth in Attachment "C".

**6. GENERAL PROVISIONS.**

The general provisions set forth in Attachment "D" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other terms or conditions insofar as the latter are inconsistent with the general provisions. The HIPAA Business Associates Agreement, Attachment F is incorporated by this reference.

**7. DESIGNATED REPRESENTATIVES.**

The Behavioral Health Clinical Director of Sierra County Human Services or Designee is the designated representative of the COUNTY and will administer this Agreement for the COUNTY. Reyna V. Schlichter, Executive Director is the authorized representative for CONTRACTOR. Changes in designated representatives shall occur only by advance written notice to the other party.

**8. ATTACHMENTS.**

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

- Attachment A - Services
- Attachment B - Payment
- Attachment C - Additional Provisions
- Attachment D - General Provisions
- Attachment E - Form of Invoice
- Attachment F – Business Associate Agreement

**9. AGREEMENT DATE.** The Agreement Date is July 1, 2020 as approved by the Sierra County Board of Supervisors.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day here first above written.

"COUNTY"

"CONTRACTOR"

COUNTY OF SIERRA

By \_\_\_\_\_  
JIM BEARD  
Chairman, Board of Supervisors

\_\_\_\_\_  
REYNA V. SCHLICHTER  
Executive Director

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
HEATHER FOSTER  
Clerk of the Board

\_\_\_\_\_  
DAVID PRENTICE  
County Counsel

## ATTACHMENT A

### A.1 SCOPE OF SERVICES AND DUTIES.

The services to be provided by CONTRACTOR and the scope of CONTRACTOR's duties include the following:

**CONTRACTOR** shall provide Clinically Managed Low-Intensity Residential Service to certain county residents who have been determined by authorized Sierra County Behavioral Health staff, to be in need of treatment of chemical dependency. Such services shall be provided in accordance with the Program Guidelines prepared by the California Department of Health Care Services.

Clinically Managed Low-Intensity Residential Service are defined for the purpose of this contract as a community based peer group oriented, residential facility which provides food, shelter and certain services in a supportive non-drinking or substance using environment for the recovering individual.

The services include but are not limited to:

1. Room and board
2. Group sessions oriented towards practical problems in social, occupational, residential and other areas
3. Individual counseling and support
4. Liaison on behalf of client in utilizing county and private services
5. Other program services in agreement with the purposes and standards as set forth by the California Department of Health Care Services Program Guidelines
6. Administrative services as required by the same State Guidelines

It is understood that the COUNTY of Sierra Substance Use Disorder Programs will pay for services provided to persons who have been screened, evaluated and for whom a rehabilitation plan has been developed, in accordance with this Agreement. It is further understood that the COUNTY will reimburse CONTRACTOR for medical treatment and/or prescriptions for those clients who are indigent and ineligible for Medi-Cal only with written prior authorization by the Behavioral Health Clinical Director or designated assistant.

**CONTRACTOR** shall provide Recovery Residence services who have been determined by authorized Sierra County Behavioral Health staff to be in need of treatment of chemical dependency. Such services shall be provided in accordance with the Program Guidelines prepared by the California Department of Health Care Services Programs.

Recovery Residence services are defined for the purpose of this contract as a community based peer group oriented, sober living facility which provides food, shelter and certain services in a supportive non-drinking or substance using environment for the recovering individual. The transitional facilities are located near the Counseling Centers for convenience.

The services include but are not limited to:

1. Room and board
2. Individual counseling sessions
3. Group counseling sessions
4. Intensive Outpatient Counseling
5. Other program services in agreement with the purposes and standards as set forth by the California Department of Health Care Services Program Guidelines
6. Administrative services as required by the same State Guidelines

It is understood that the COUNTY of Sierra Substance Use Disorder Programs will pay for services provided to persons who have been screened, evaluated and for whom a rehabilitation plan has been developed, in accordance with this Agreement. It is further understood that the COUNTY will reimburse CONTRACTOR for medical treatment and/or prescriptions for those clients who are indigent and ineligible for Medi-Cal only with written prior authorization by the Behavioral Health Clinical Director or designated assistant.

CONTRACTOR shall implement a process improvement project as outlined in the Network Improvement of Addiction Treatment (NIA Tx) model, targeting at least one of the following four NIA Tx aims:

- Reduced waiting times
- Reduced no-shows
- Increased admissions
- Increased continuation in treatment

**CLIENT RECORDS:**

Contractor shall maintain adequate records on each individual client which shall include a record of services provided by the various professional personnel in sufficient detail to make possible an evaluation of services, and contain all data necessary in reporting to the California Department of Health Care Services Programs, including records of client's interviews and progress notes. All records shall be retained by Contractor for ten (10) years or one (1) year beyond the client's reaching majority. These records will be maintained in the strictest confidence in accordance with Division 105 Section 11812 of the Health and Safety Code. County shall have access to Contractor client records at all times.

Contractor shall maintain complete financial records that clearly reflect the cost of each type of service for which payment is claimed. Any apportionment of costs shall be made in accordance with generally accepted accounting principles and shall evidence proper audit trails reflecting the true cost of services rendered. The Contractor will retain all financial records for at least ten (10) years. County shall have access to these records.

The California Department of Health Care Services Programs, the Behavioral Health Department within the County and/or their appropriate audit agencies shall have the right to inspect or otherwise evaluate the quality, appropriateness and timeliness of services performed and inspect any books and/or records of the Contractor which pertain to the terms and conditions of this Agreement.

**A.2. TIME SERVICES RENDERED.**

During the Contract period.

**A.3. MANNER SERVICES ARE TO BE PERFORMED.**

As an independent contractor, CONTRACTOR shall be responsible for providing services and fulfilling obligations hereunder in a professional manner. COUNTY shall not control the manner of performance.

**A.4. FACILITIES FURNISHED BY COUNTY.**

None

**ATTACHMENT B  
PAYMENT**

COUNTY shall pay CONTRACTOR as follows:

**B.1 BASE CONTRACT FEE**

**Residential Services**

Non-Perinatal Facility Level 3.1 (Men's monthly Rate) \$4,500

**Specialized perinatal facilities**

Women's Facility (Non-Perinatal) ASAM Level 3.1) (Women's monthly rate) \$4,500  
(State Plan Perinatal rate will be the Current DMC Perinatal Rate)

**Residential**

Residential Drug Medi-Cal fees will reflect the current allowable rate for treatment, as well as room and board.

**Recovery Residence**

Daily Rate  
(Includes at minimum two random UA tests per month) \$21.00 per day

**Outpatient Services**

Group Sessions (90 min) \$45.00 per session  
Individual Session (60 min) \$75.00 per session  
Intensive Outpatient Individual (60 min) \$75.00  
Intensive Outpatient Group (90 min) \$75.00

(State Plan Non-Perinatal and Perinatal Rate will be the current DMC Rates)

**Urine & Other Test Pricing**

Urine sample 8 panel sent to lab (includes alcohol up to 24 hrs.) \$45  
Urine sample instant test only (10 Panel) \$45  
Urine sample instant test only (14 Panel) \$50  
Urine sample instant test with 8 panel sent to lab \$55  
Urine sample 8 panel with adulteration test \$55  
Urine sample ETG (Alcohol) sent to lab \$55  
Urine sample 8 panel and ETG test sent to lab \$85  
Urine test add-ons and confirmation testing by request \$25 - \$50  
Price varies depending on requested add-on or confirmation test  
Please call the Counseling Center for pricing  
Hair test sent to lab \$100  
Alcohol Breathalyzer Test \$45  
Instant Alcohol Mouth Swab \$45  
Instant 6 Panel Mouth Swab for Drugs \$35  
ETG Nail Test \$180  
5 Panel Nail Test \$130  
5 Panel/ETG Combo Nail Test \$250  
7 Panel Nail Test \$150  
7 Panel/ETG Combo Nail Test \$275  
9 Panel Nail Test \$170  
9 Panel/ETG Combo Nail Test \$300

**CONTRACTOR** shall submit requests for payment after completion of services or no later than the tenth (10th) day of the month following provision of services. Request for payment shall be substantially in the form of the invoice attached hereto as Attachment E. Payment shall be made within sixty (60) days after the Invoice is approved by the County Contract Administrator. In no event shall total compensation paid to CONTRACTOR under this Provision B.1 exceed \$25,000.00 without an amendment to this Agreement approved by the Sierra County Board of Supervisors;

**B.2 MILEAGE** N/A

**B.3 TRAVEL COSTS.** N/A

**B.4 AUTHORIZATION REQUIRED.** Services performed by CONTRACTOR and not authorized in this Agreement shall not be paid for by COUNTY. Payment for additional services shall be made to CONTRACTOR by COUNTY if, and only if, this Agreement is amended in writing by both parties in advance of performing additional services.

**B.5 SPECIAL CIRCUMSTANCES.** Additional costs may be incurred up to a maximum of \$500 with approval of the Director of Sierra County Human Services or his/her designee for this agreement.

**B.6 MAXIMUM CONTRACT AMOUNT.** The maximum amount payable to CONTRACTOR under this Agreement shall not exceed the following:

|                                |                        |                    |
|--------------------------------|------------------------|--------------------|
| B.1                            | Base Contract Fee      | \$40,000.00        |
| B.2                            | Mileage                | N/A                |
| B.3                            | Travel Costs           | N/A                |
| B.4                            | Authorization Required | N/A                |
| B.5                            | Special Circumstances  | \$ 500.00          |
| <b>MAXIMUM CONTRACT AMOUNT</b> |                        | <b>\$40,500.00</b> |

### 1. Compensation.

- a. Prior to commencement of services, Contractor shall provide a valid, current taxpayer ID number to Sierra County Auditor/Controller at (530) 289-3273. County shall pay to Contractor as compensation in full for all services performed by Contractor pursuant to this Contract, the following sums in the following manner:
  - 1) County agrees to reimburse the Contractor for State-approved units of service during the term of this Contract, resulting from services, but not to exceed the Uniform Statewide Daily Reimbursement (USDR) rate per service rendered as described in Section 3.
  - 2) County shall compensate Contractor the Department of Health Care Services (DHCS) established Drug Medi-Cal rates, as outlined or any subsequent publication of updated rates from DHCS, for each service over the duration of this Contract. Such fees shall be calculated per MHSUDS Information Notice 19-035, or any subsequent publication of updated rates from DHCS.
  - 3) In no event shall the maximum allowable payment to Contractor in any fiscal year under this Contract exceed the amount granted by the State of California to County pursuant to the Department of Health Care Services contract for Substance Use Disorder (SUD) services for the Fiscal Year applicable to this Contract.

### 2. Billing.

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 30th day of the following calendar month. Contractor must submit claims for payment on a Drug Medi-Cal Monthly Summary Invoice Form, which can be found at: [http://www.dhcs.ca.gov/provgovpart/Documents/FMAB/Contract\\_Information/Doc\\_2K-2Lc/2H\\_AD1592\\_rev\\_02\\_2008.pdf](http://www.dhcs.ca.gov/provgovpart/Documents/FMAB/Contract_Information/Doc_2K-2Lc/2H_AD1592_rev_02_2008.pdf)

### 3. Documentation.

Contractor shall provide, documentation pertaining to client services provided during the month in the form of a monthly progress report sent to the County on the first of each month. The report shall highlight client scheduled attendance, level of participation, treatment plan or updates and continuum/transition plan. When continuing services or extensions are determined medically necessary by a physician based on section 51303, (past 90 days for residential or 6 months for outpatient) the contractor shall send a written request for extension with updated treatment plan and goals during the extension and a medical necessity form from the physician staffing the identified need.

**4. Payments.**

- a. County shall, within thirty (30) days following receipt of a correct monthly invoice meeting all criteria in this Contract, 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 and will provide Contractor with a Notice of Adverse Beneficiary Determination, if applicable. The parties shall exchange any information needed to resolve the dispute within a reasonable time.

**5. Audit Risk.**

- a. In the case that Contractor-provided services are billed by the County to Medi-Cal, Contractor agrees to accept risk for Medi-Cal exceptions related to deficiencies in documentation or any other areas of responsibility to County to the extent allowed by law. Contractor further agrees to be responsible for reimbursing County any revenues to be paid to the State or Federal government, including but not limited to exceptions resulting from Medi-Cal audit, or as identified through utilization review and medical review by insurance carriers or other auditors. Said reimbursements shall include all lost revenues, damages of any kind, costs and attorney fees incurred by the County, and other charges assessed against the County to the full extent allowed by law.
- b. Furthermore, as per County Provider Problem Resolution & Appeal Processes (Outpatient), County shall provide Contractor a process for appealing or disputing Medi-Cal exceptions or deficiencies demonstrated specifically attributable to Contractor by the County. Reimbursement to the County by Contractor shall not be required until the completion of the appeal or dispute resolution process.

**6. County may deduct any such funds from other payments to Contractor if County includes a description of the basis for the deduction with its payment. Withholding Payment.**

- a. In addition to withholding payment due to disputed charges on a Drug Medi-Cal Monthly Summary Invoice, County shall have the right to withhold payment to Contractor under the following conditions:
  - 1) Contractor has not documented or has not sufficiently documented Contractor's services according to client records standards of the industry and any special requirements needed by third party payors or federal or state funding agencies.
  - 2) 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 and/or reviews of records in any form of information storage.
  - 3) Contractor has failed to sufficiently itemize or document the itemized Drug Medi-Cal Monthly Summary Invoice.
  - 4) When, in the opinion of the County and expressed by the County to Contractor in writing, the Contractor's performance, in whole or in part, has not been sufficiently documented.

## ATTACHMENT C

### ADDITIONAL PROVISIONS

The treatment facility shall have the capability of entering treatment data pertaining to treatment provided to Sierra county residents at the facility into the State of California Department of Health Care Services Programs (DHCS) treatment data system. The treatment facility will enter all data pertaining to the client(s) treatment episode(s) into the CalOMS State of California Department of Health Care Services Programs (DHCS) treatment data system, in accordance with state requirements.

#### **State Regulatory Requirements for Treatment Provider Contracts**

Pursuant to the provisions of Title 9, Code of California Regulations (CCR) Section 9530 (n) the County is required to include the SACPA regulatory requirements in all treatment provider contracts. CONTRACTOR acknowledges and agrees that the following regulatory provisions apply to this Agreement.

#### **Section 9530(f), and 9530(k)(2) Title 9, of the California Code of Regulations states:**

- (f) “With the exception of specific requirements included in (g), (h) and (i) of this regulation, determination of allowable and allocable costs under the Act shall be made utilizing the guidelines contained in the Act and in cost principles published by the federal Office of Management and Budget (OMB). The county shall follow OMB Circular A-87, “Cost Principles of State, Local and Indian Tribal Governments. Public and Private contractors shall follow OMB Circular A-122, “Cost Principles for Non-Profit Organizations.”
- (k)(2) “The county shall monitor and document activities to ensure that funds are not used to supplant funds from any existing fund source or mechanism currently used to provide drug treatment services in the county.

#### **Section 9532(b)(1), Title 9, of the California Code of Regulations states:**

- (b)(1) “Drug treatment programs in which clients are placed shall assess fees toward cost of treatment based on their determination of a client’s ability to pay in accordance with Section 11991.5 of the Health and Safety Code. Such fees shall be deducted from the drug treatment program’s cost of providing services in accordance with health and Safety Code Section.

#### **Section 9535(e), Title 9, of the California Code of Regulations states:**

- (e) “The county shall retain all records documenting use of funds for a period of five years from the end of the fiscal year or until completion of the Department’s annual audit and resolution of any resulting audit issues if the audit is not resolved within 5 years.

**Respectively Sections 9545(a), 9545(b), 9545(d), 9545(e), 9545(g) and 9545(h) Title 9, of the California Code of Regulations state as follows:**

- (a) “Counties shall annually audit any public or private contractors with whom they have agreements and who expend \$300,000 or more in the funds to ensure compliance with the provisions of the Act, the requirements of this Chapter, and the county terms and conditions under which the funds were awarded. Counties may, at their discretion, conduct such audits, contract for the performance of such audits, or require the public or private contractors to obtain such audits.”
- (b) “The audit shall be conducted in accordance with generally accepted government auditing standards as described in “Government Auditing Standards (1994 Revision)”, published by the United States General Accounting Office by the Comptroller General of the United States.
- (d) “The written audit report shall establish whether the contractor expended funds in accordance with the provisions of the Act, the requirements of this Chapter, and the county terms and conditions under which the funds were awarded.
- (e) “When a county audit finds that a public or private contractor has misspent funds (Section 9530), the county shall demand repayment from the contractor in the amount of such audit findings and shall deposit the recovered funds into the county’s trust fund. Such recovery of funds shall be reported to the Department on the “Program Income” line of the AFSR (Form 10096, New 4/01), and the specific amount recovered shall be identified in the “Comments/Remarks” line on the same report. The county shall maintain an audit trail to identify the specific audit periods for which recoveries are reported.
- (g) “Notwithstanding subsection (a) of this regulation, any public or private contractor who is required to obtain a single audit pursuant to OMB Circular A-133 and who receives funding under the Act, shall ensure that the single audit addresses compliance with the requirements of the Act. The county may rely on the single audit as fulfilling its responsibilities in Section 9545(a).”
- (h) “Audit work papers supporting the reports shall be retained for a period of five years from the issuance of the audit report and the county shall make such work papers available to the Department upon request.

Contractor shall comply with the following regulations and guidelines:

- a. Title 21, CFR Part 1300, et seq., Title 42, CFR, Part 8
- b. Title 22, CCR, Sections 51341.1, 51490.1, and 51516.1, (Document 2C)
- c. Minimum Quality Treatment Standards, (Document 2F(a))
- d. Title 9, CCR, Division 4, Chapter 4, Subchapter 1, Sections 10000, et seq
- e. Title 22, CCR, Division 3, Chapter 3, sections 51000 et seq

In the event of conflicts, the provisions of Title 22 shall control if they are more stringent.

**Americans with Disabilities Act**

Contractor agrees to ensure that deliverables developed and produced, pursuant to this agreement shall comply with the accessibility requirements of Section 508 of the Rehabilitation Act and the Americans with Disabilities Act of 1973 as amended (29 U.S.C. §794 (d), and regulations implementing that as set forth in Part 1194 of Title 36 of the Federal Code of Regulations. In 1998, Congress amended the Rehabilitation Act of 1973 to require Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. California Government Code section 11135 codifies section 508 of the Act requiring accessibility of electronic and information technology.

**42 CFR 54 – Charitable Choice regulations applicable to States receiving Substance Abuse Prevention and Treatment Block Grants and/or Projects for Assistance in Transition from Homelessness Grants 54.1 - 54.13**

**54.9 Assurances and State oversight of the Charitable Choice requirements**

In order to ensure that States receiving grant funding under the SAPT block grant and PATH formula grant programs comply with the SAMHSA Charitable Choice provisions and provide oversight of religious organizations that provide substance abuse services under such programs, States are required as part of their applications for funding to certify that they will comply with all of the requirements of such provisions and the implementing regulations under this part, and that they will provide such oversight of religious organizations.

**54.12 Treatment of intermediate organizations.**

If a nongovernmental organization (referred to here as an “intermediate organization”), acting under a contract or other agreement with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide services under any applicable program, the intermediate organization shall have the same duties under this part as the government. The intermediate organization retains all other rights of a nongovernmental organization under this part and the SAMHSA Charitable Choice provisions.

**Additional Contract Restrictions**

This Contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress, or any statute enacted by the Congress, which may affect the provisions, terms, or funding of this Contract in any manner.

**Nullification of this contract**

The parties agree that if the Contractor fails to comply with the provisions of W&I Code Section 14124.24, all areas related to the DMC Treatment Program SUD services this Contract shall be null and void.

**Hatch Act**

Contractor agrees to comply with the provisions of the Hatch Act (Title 5 USC, Sections 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

**No Unlawful Use or Unlawful Use Messages Regarding Drugs**

Contractor agrees that information produced through these funds, and which pertains to drugs and alcohol-related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug or alcohol related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999-11999.3). By signing this Contract, Contractor agrees that it will enforce, and will require its subcontractors to enforce, these requirements.

**Noncompliance with Reporting Requirements**

Contractor agrees that DHCS has the right to withhold payments until Contractor has submitted any required data and reports.

### **Limitation on Use of Funds for Promotion of Legalization of Controlled Substances**

None of the funds made available through this Contract may be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of Section 202 of the Controlled Substances Act (21 USC 812).

### **Debarment and Suspension**

Contractor shall not subcontract with any party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp. p. 189) and 12689 (3 CFR part 1989., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

The Contractor shall advise all subcontractors of their obligation to comply with applicable federal debarment and suspension regulations, in addition to the requirements set forth in 42 CFR Part 1001.

### **Restriction on Distribution of Sterile Needles**

No SABG funds made available through this Contract shall be used to carry out any program that includes the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug unless DHCS chooses to implement a demonstration syringe services program for injecting drug users.

### **Health Insurance Portability and Accountability Act (HIPAA) of 1996**

All work performed under this Contract is subject to HIPAA, Contractor shall perform the work in compliance with all applicable provisions of HIPAA.

#### **A. Nondiscrimination and Institutional Safeguards for Religious Providers**

Contractor shall establish such processes and procedures as necessary to comply with the provisions of Title 42, USC, Section 300x-65 and Title 42, CFR, Part 54, (Reference Document 1B).

#### **B. Counselor Certification**

Any counselor or registrant providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in a DHCS licensed or certified program is required to be registered or certified as defined in Title 9, CCR, Division 4, Chapter 8, (Document 3H).

#### **C. Cultural and Linguistic Proficiency**

To ensure equal access to quality care by diverse populations, each service provider receiving funds from this Contract shall adopt the Federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards (Document 3V).

#### **D. Intravenous Drug Use (IVDU) Treatment**

Contractor shall ensure that individuals in need of IVDU treatment shall be encouraged to undergo AOD treatment (42 USC 300x-23 (45 CFR 96.126(e)).

**E. Tuberculosis Treatment**

Contractor shall ensure the following related to Tuberculosis (TB):

1. Routinely make available TB services to each individual receiving treatment for AOD use and/or abuse.
2. Reduce barriers to patients' accepting TB treatment.
3. Develop strategies to improve follow-up monitoring, particularly after patients leave treatment, by disseminating information through educational bulletins and technical assistance.

**F. Trafficking Victims Protection Act of 2000**

Contractor and its subcontractors that provide services covered by this Contract shall comply with the Trafficking Victims Protection Act of 2000 (22 United States Code (USC) 7104(g)) as amended by section 1702 of Pub. L. 112-239.

**G. Perinatal Services Network Guidelines**

Contractor must comply with the perinatal program requirements as outlined in the Perinatal Services Network Guidelines. The Contractor must comply with the current version of these guidelines until new Perinatal Services Network Guidelines are established and adopted. The incorporation of any new Perinatal Services Network Guidelines into this Contract shall not require a formal amendment.

**H. Byrd Anti-Lobbying Amendment (31 USC 1352)**

Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Contractor shall also disclose to DHCS any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**I. Nondiscrimination in Employment and Services**

By signing this Contract, Contractor certifies that under the laws of the United States and the State of California, incorporated into this Contract by reference and made a part hereof as if set forth in full, Contractor will not unlawfully discriminate against any person.

**J. Federal Law Requirements:**

1. Title VI of the Civil Rights Act of 1964, Section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally-funded programs.
2. Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.) prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing.

3. Age Discrimination Act of 1975 (45 CFR Part 90), as amended 42 USC Sections 6101 – 6107), which prohibits discrimination on the basis of age.
4. Age Discrimination in Employment Act (29 CFR Part 1625).
5. Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.
6. Title II of the Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities.
7. Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding access.
8. Section 504 of the Rehabilitation Act of 1973, as amended (29 USC Section 794), prohibiting discrimination on the basis of individuals with disabilities.
9. Executive Order 11246 (42 USC 2000(e) et seq. and 41 CFR Part 60) regarding nondiscrimination in employment under federal contracts and construction contracts greater than \$10,000 funded by federal financial assistance.
10. Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency.
11. The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse.
12. Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part 2, Subparts A – E).

**K. State Law Requirements:**

1. Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (2 CCR 7285.0 et seq.).
2. Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135.
3. Title 9, Division 4, Chapter 8 of the CCR, commencing with Section 13000.
4. No state or federal funds shall be used by the Contractor or its subcontractors for sectarian worship, instruction, or proselytization. No state funds shall be used by the Contractor or its subcontractors to provide direct, immediate, or substantial support to any religious activity.
5. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for DHCS to withhold payments under this Contract or terminate all, or any type, of funding provided hereunder.

**L. Additional Contract Restrictions**

1. This Contract is subject to any additional restrictions, limitations, or conditions enacted by the federal or state governments that affect the provisions, terms, or funding of this Contract in any manner.

**M. Information Access for Individuals with Limited English Proficiency**

1. Contractor shall comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act (Government Code sections 7290-7299.8) regarding access to materials that explain services available to the public as well as providing language interpretation services.
2. Contractor shall comply with the applicable provisions of Section 1557 of the Affordable Care Act (45 CFR Part 92), including, but not limited to, 45 CFR 92.201, when providing access to: (a) materials explaining services available to the public, (b) language assistance, (c) language interpreter and translation services, and (d) video remote language interpreting services.

**N. Federal and State Regulations**

When a request for Covered Services is made by an eligible beneficiary, Contractor shall initiate services with reasonable promptness. Contractor shall have a documented system for monitoring and evaluating accessibility of care, including a system for addressing problems that develop regarding wait times and appointments

Contractor shall comply with all terms and conditions of this Contract and all pertinent state and federal laws and regulations.

**O. Services Sites**

1. Contractor shall obtain and maintain DMC certification of the site(s) at which services are provided or may be provided as required by the California Department of Health Care Services (DHCS).
2. Contractor site(s) where DMC services are provided must be certified in accordance with Drug Medi-Cal regulations and the Americans with Disabilities Act (ADA) and an official fire clearance must be present at each site.
3. Contractor shall provide the services required by this Contract during hours that are in the best interest of County's clients and, within this parameter, Contractor may determine the appropriate availability and hours of its operations.
4. Contractor agrees to provide all necessary tools, equipment, materials, and supplies necessary for the performance of the services under this 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 costs of equipment provided by Contractor, all fees, fines, 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.

**P. Reporting**

1. Contractor shall establish and maintain, at Contractor's cost, a computer system fully compliant with HIPAA transactions and Codeset standards as well as the DHCS CalOMS Data Collection standards, as necessary, for the submission of information required under the terms and conditions of this Contract, including, but not limited to the submission of Drug Medi-Cal claims and CalOMS treatment admission and discharge data, including client demographic data.
2. Contractor will be responsible for the accuracy of all data and information which Contractor provides to County or State, ensuring that all services are performed appropriately within the Federal, State, and County guidelines, regulations, code, statutes, and law, including, but not limited to administration, utilization review, documentation, and staffing.

3. Contractor shall be solely liable and responsible for all data and information submitted by Contractor to County or State in support of claims for services that may be based on data and information submitted by Contractor. Contractor shall process all service data requests within the time frame prescribed by the County and/or State. County shall have no liability for Contractor's failure to comply with County and/or State time frames.
4. Upon request by County, Contractor shall provide to County within seven (7) days of the request, any and all client progress report(s), along with County authorization form(s) properly executed by the client(s).

**Q. Auditing**

1. Contractor shall maintain an audit file of all records pertaining to this Contract for a period of five years after the duration date of this Contract, or until final resolution of any audits, whichever occurs later.
2. County will periodically evaluate Contractor's program units of service for the purpose of assessing the reasonableness of the County's payment for services provided. Contractor will be provided reasonable notice if additional contractual and/or service delivery issues are to be reviewed. Contractor is expected to prepare and provide to County the necessary reports and other analysis to adequately explain Contractor's use of funds.

**ATTACHMENT D  
GENERAL PROVISIONS**

**D.1 INDEPENDENT CONTRACTOR.** For all purposes arising out of this Agreement, CONTRACTOR shall be an independent contractor and CONTRACTOR and each and every employee, agent, servant, partner, and shareholder of CONTRACTOR (collectively referred to as "The Contractor") shall not be, for any purpose of this Agreement, an employee of COUNTY. Furthermore, this Agreement shall not under any circumstance be construed or considered to be a joint powers agreement as described in *Government Code* Section 6000, et seq., or otherwise. As an independent contractor, the following shall apply:

**D.1.1** CONTRACTOR shall determine the method, details and means of performing the services to be provided by CONTRACTOR as described in this Agreement.

**D.1.2** CONTRACTOR shall be responsible to COUNTY only for the requirements and results specified by this Agreement and, except as specifically provided in this Agreement, shall not be subject to COUNTY's control with respect to the physical actions or activities of CONTRACTOR in fulfillment of the requirements of this Agreement.

**D.1.3** CONTRACTOR shall be responsible for its own operating costs and expenses, property and income taxes, workers' compensation insurance and any other costs and expenses in connection with performance of services under this Agreement.

**D.1.4** CONTRACTOR is not, and shall not be, entitled to receive from or through COUNTY, and COUNTY shall not provide or be obligated to provide the CONTRACTOR with workers' compensation coverage, unemployment insurance coverage or any other type of employee or worker insurance or benefit coverage required or provided by any federal, state or local law or regulation for, or normally afforded to, any employee of COUNTY.

**D.1.5** The CONTRACTOR shall not be entitled to have COUNTY withhold or pay, and COUNTY shall not withhold or pay, on behalf of the CONTRACTOR any tax or money relating to the Social Security Old Age Pension Program, Social Security Disability Program or any other type of pension, annuity or disability program required or provided by any federal, state or local law or regulation for, or normally afforded to, an employee of COUNTY.

**D.1.6** The CONTRACTOR shall not be entitled to participate in, or receive any benefit from, or make any claim against any COUNTY fringe benefit program including, but not limited to, COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan, or other type of benefit program, plan or coverage designated for, provided to, or offered to COUNTY's employees.

**D.1.7** COUNTY shall not withhold or pay on behalf of CONTRACTOR any federal, state or local tax including, but not limited to, any personal income tax owed by CONTRACTOR.

**D.1.8** The CONTRACTOR is, and at all times during the term of this Agreement shall represent and conduct itself as, an independent contractor and not as an employee of COUNTY.

**D.1.9** CONTRACTOR shall not have the authority, express or implied, to act on behalf of, bind or obligate the COUNTY in any way without the written consent of the COUNTY.

**D.2 LICENSES, PERMITS, ETC.** CONTRACTOR represents and warrants to COUNTY that it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to COUNTY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed.

**D.3 CHANGE IN STATUTES OR REGULATIONS.** If there is a change of statutes or regulations applicable to the subject matter of this Agreement, both parties agree to be governed by the new provisions, unless either party gives notice to terminate pursuant to the terms of this Agreement.

**D.4 TIME.** CONTRACTOR shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of CONTRACTOR's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

**D.5 INSURANCE.**

**D.5.1** Prior to rendering services provided by the terms and conditions of this Agreement, CONTRACTOR shall acquire and maintain during the term of this Agreement insurance coverage through and with an insurer acceptable to COUNTY, naming the COUNTY and COUNTY's officers, employees, agents and independent contractors as additional insured (hereinafter referred to as "the insurance"). The insurance shall contain the coverage indicated by the checked items below.

Yes **D.5.1.1** Comprehensive general liability insurance including comprehensive public liability insurance with minimum coverage of One Million Dollars (\$1,000,000) per occurrence and with not less than Three Million Dollars (\$3,000,000) aggregate; CONTRACTOR shall insure both COUNTY and CONTRACTOR against any liability arising under or related to this Agreement.

NO **D.5.1.2** During the term of this Agreement, CONTRACTOR shall maintain in full force and effect a policy of professional errors and omissions insurance with policy limits of not less than One Million Dollars (\$1,000,000) per incident and Three Million Dollars (\$3,000,000) annual aggregate, with deductible or self-insured portion not to exceed Two Thousand Five Hundred Dollars (\$2,500).

Yes **D.5.1.3** Comprehensive automobile liability insurance with minimum coverage of Five Hundred Thousand Dollars (\$500,000) per occurrence and with not less than Five Hundred Thousand Dollars (\$500,000) on reserve in the aggregate, with combined single limit including owned, non-owned and hired vehicles.

Yes **D.5.1.4** Workers' Compensation Insurance coverage for all CONTRACTOR employees and other persons for whom CONTRACTOR is responsible to provide such insurance coverage, as provided by Division 4 and 4.5 of the *Labor Code*.

**D.5.2** The limits of insurance herein shall not limit the liability of the CONTRACTOR hereunder.

**D.5.3** In respect to any insurance herein, if the aggregate limit available becomes less than that required above, other excess insurance shall be acquired and maintained immediately. For the purpose of any insurance term of this Agreement, "aggregate limit available" is defined as the total policy limits available for all claims made during the policy period.

**D.5.4** The insurance shall include an endorsement that no cancellation or material change adversely affecting any coverage provided by the insurance may be made until twenty (20) days after written notice is delivered to COUNTY.

**D.5.5** The insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to COUNTY at its sole and absolute discretion. The amount of any deductible payable by the insured shall be subject to the prior approval of the COUNTY and the COUNTY, as a condition of its approval, may require such proof of the adequacy of CONTRACTOR's financial resources as it may see fit.

**D.5.6** Prior to CONTRACTOR rendering services provided by this Agreement, and immediately upon acquiring additional insurance, CONTRACTOR shall deliver a certificate of insurance describing the insurance coverages and endorsements to:

County of Sierra  
Auditor/Risk-Manager  
P.O. Drawer 425  
Downieville, CA 95936

**D.5.7** CONTRACTOR shall not render services under the terms and conditions of this Agreement unless each type of insurance coverage and endorsement is in effect and CONTRACTOR has delivered the certificate(s) of insurance to COUNTY as previously described. If CONTRACTOR shall fail to procure and maintain said insurance, COUNTY may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by CONTRACTOR to COUNTY upon demand. The policies of insurance provided herein which are to be provided by CONTRACTOR shall be for a period of not less than one year, it being understood and agreed that twenty (20) days prior to the expiration of any policy of insurance, CONTRACTOR will deliver to COUNTY a renewal or new policy to take the place of the policy expiring.

**D.5.8** COUNTY shall have the right to request such further coverages and/or endorsements on the insurance as COUNTY deems necessary, at CONTRACTOR's expense. The amounts, insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to COUNTY in its sole and absolute discretion.

**D.5.9** Any subcontractor(s), independent contractor(s) or any type of agent(s) performing or hired to perform any term or condition of this Agreement on behalf of CONTRACTOR, as may be allowed by this Agreement (hereinafter referred to as the "SECONDARY PARTIES"), shall comply with each term and condition of this Section D.5 entitled "INSURANCE". Furthermore, CONTRACTOR shall be responsible for the SECONDARY PARTIES' acts and satisfactory performance of the terms and conditions of this Agreement.

**D.6 INDEMNITY.** CONTRACTOR shall defend, indemnify, and hold harmless COUNTY, its elected and appointed councils, boards, commissions, officers, agents, and employees from any liability for damage or claims for damage for any economic loss or personal injury, including death, as well as for property damage, which may arise from the intentional or negligent acts or omissions of CONTRACTOR in the performance of services rendered under this Agreement by CONTRACTOR, or any of CONTRACTOR's officers, agents, employees, contractors, or subcontractors.

**D.7 CONTRACTOR NOT AGENT.** Except as COUNTY may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of COUNTY in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this Agreement to bind COUNTY to any obligation whatsoever.

**D.8 ASSIGNMENT PROHIBITED.** CONTRACTOR may not assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

**D.9 PERSONNEL.** CONTRACTOR shall assign only competent personnel to perform services pursuant to this Agreement. In the event that COUNTY, in its sole discretion at any time during the term of this Agreement, desires the removal of any person or persons assigned by CONTRACTOR to perform services pursuant to this Agreement, CONTRACTOR shall remove any such person immediately upon receiving written notice from COUNTY of its desire for removal of such person or persons.

**D.10 STANDARD OF PERFORMANCE.** CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of whatsoever nature which CONTRACTOR delivers to COUNTY pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession.

**D.11 POSSESSORY INTEREST.** The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the *California Revenue and Taxation Code* (107). For all purposes of compliance by COUNTY with Section 107.6 of the *California Revenue and Taxation Code*, this recital shall be deemed full compliance by the COUNTY. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the County Assessor and the contracting parties hereto. A taxable possessory interest may be created by this, if created, and the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

**D.12 TAXES.** CONTRACTOR hereby grants to the COUNTY the authority to deduct from any payments to CONTRACTOR any COUNTY imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to CONTRACTOR.

**D.13 TERMINATION.** COUNTY shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to CONTRACTOR. In the event COUNTY gives notice of termination, CONTRACTOR shall immediately cease rendering service upon receipt of such written notice and the following shall apply:

**D.13.1.1** CONTRACTOR shall deliver to COUNTY copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, computer storage medium (tapes, disks, diskettes, etc.) and every other means of recording upon any tangible thing, and form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

**D.13.1.2** COUNTY shall pay CONTRACTOR the reasonable value of services rendered by CONTRACTOR to the date of termination pursuant to this Agreement not to exceed the amount documented by CONTRACTOR and approved by COUNTY as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed One Thousand Dollars (\$1,000). Further provided, however, COUNTY shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. In this regard, CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of the COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of the COUNTY shall be final. The foregoing is cumulative and does not affect any right or remedy which COUNTY may have in law or equity.

**D.13.2** CONTRACTOR may terminate its services under this Agreement upon thirty (30) working days written notice to the COUNTY, without liability for damages, if CONTRACTOR is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by COUNTY, provided that CONTRACTOR has first provided COUNTY with a written notice of any alleged breach, specifying the nature of the alleged breach and providing not less than ten (10) working days within which the COUNTY may cure the alleged breach.

**D.14 OWNERSHIP OF INFORMATION.** All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become and/or remain the property of COUNTY, and CONTRACTOR agrees to deliver reproducible copies of such documents to COUNTY on completion of the services hereunder. The COUNTY agrees to indemnify and hold CONTRACTOR harmless from any claim arising out of reuse of the information for other than this project.

**D.15 WAIVER.** A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

**D.16 COMPLETENESS OF INSTRUMENT.** This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made, express or implied.

**D.17 SUPERSEDES PRIOR AGREEMENTS.** It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

**D.18 ATTORNEY'S FEES.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

**D.19 MINOR AUDITOR REVISION.** In the event the Sierra County Auditor's office finds a mathematical discrepancy between the terms of the Agreement and actual invoices or payments, provided that such discrepancy does not exceed 1% of the Agreement amount, the Auditor's office may make the adjustment in any payment or payments without requiring an amendment to the Agreement to provide for such adjustment. Should the COUNTY or the CONTRACTOR disagree with such adjustment, they reserve the right to contest such adjustment and/or to request corrective amendment.

**D.20 CAPTIONS.** The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**D.21 DEFINITIONS.** Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

**D.21.1 NUMBER AND GENDER.** In this Agreement, the neuter gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

**D.21.2 MANDATORY AND PERMISSIVE.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

**D.22 TERM INCLUDES EXTENSIONS.** All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

**D.23 SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**D.24 MODIFICATION.** No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

**D.25 COUNTERPARTS.** This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

**D.26 OTHER DOCUMENTS.** The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

**D.27 PARTIAL INVALIDITY.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**D.28 VENUE.** It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Sierra, State of California.

**D.29 CONTROLLING LAW.** The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

**D.30 CALIFORNIA TORT CLAIMS ACT.** Notwithstanding any term or condition of the Agreement, the provisions, and related provisions, of the California Tort Claims Act, Division 3.6 of the *Government Code*, are not waived by COUNTY and shall apply to any claim against COUNTY arising out of any acts or conduct under the terms and conditions of this Agreement.

**D.31 TIME IS OF THE ESSENCE.** Time is of the essence of this Agreement and each covenant and term herein.

**D.32 AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement are in full compliance. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

**D.33 CORPORATE AUTHORITY.** If CONTRACTOR is a corporation or public agency, each individual executing this Agreement on behalf of said corporation or public agency represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation or Board or Commission of said public agency, and that this Agreement is binding upon said corporation or public entity in accordance with its terms. If CONTRACTOR is a corporation, CONTRACTOR shall, within thirty (30) days after execution of this Agreement, deliver to COUNTY a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Agreement.

**D.34 CONFLICT OF INTEREST.**

**D.34.1 LEGAL COMPLIANCE.** CONTRACTOR agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the *California Government Code*, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100, including regulations promulgated by the California Fair Political Practices Commission.

**D.34.2 ADVISEMENT.** CONTRACTOR agrees that if any facts come to its attention which raise any questions as to the applicability of this law, it will immediately inform the COUNTY designated representative and provide all information needed for resolution of the question.

**D.34.3 ADMONITION.** Without limitation of the covenants in subparagraphs D.34.1 and D.34.2, CONTRACTOR is admonished hereby as follows:

The statutes, regulations and laws referenced in this provision D.34 include, but are not limited to, a prohibition against any public officer, including CONTRACTOR for this purpose, from making any decision on behalf of COUNTY in which such officer has a direct or indirect financial interest. A violation occurs if the public officer influences or participates in any COUNTY decision which has the potential to confer any pecuniary benefit on CONTRACTOR or any business firm in which CONTRACTOR has an interest of any type, with certain narrow exceptions.

**D.35 NONDISCRIMINATION.** During the performance of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR or of the COUNTY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex. CONTRACTOR shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (*Government Code* Section 12900 et seq.). The applicable regulations of the Fair Employment Housing

Commission implementing *Government Code* Section 12900, set forth in Chapter 5, Division 4 of Title 2 of the California *Administrative Code* are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CONTRACTOR shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulation issued pursuant to said Act. CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

**D.36 DRUG-FREE WORK PLACE.** By signing this contract the County certifies that the County will comply, and require that subcontractors comply, with the requirement of the Drug-Free Work Place Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free work place.

**D.37 JOINT AND SEVERAL LIABILITY.** If any party consists of more than one person or entity, the liability of each person or entity signing this Agreement shall be joint and several.

**D.38 TAXPAYER I.D. NUMBER.** The COUNTY shall not disburse any payments to CONTRACTOR pursuant to this Agreement until CONTRACTOR supplies the latter's Taxpayer I.D. Number or Social Security Number (as required on the line under CONTRACTOR's signature on page 2 of this Agreement).

**D.39 NOTICES.** All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to "COUNTY":  
Board of Supervisors  
County of Sierra  
Post Office Drawer D  
Downieville, CA 95936

With a copy to:  
Sierra County Human Services  
P.O. Box 265  
Loyalton, CA 96118

If to "CONTRACTOR":  
  
Progress House, Inc.  
Progress House Administration  
Barbara Vermilyea  
Executive Director  
P.O. Box 1666  
Placerville, CA 95667



ATTACHMENT E  
SIERRA COUNTY

**Business Associates Agreement**

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This Agreement is entered into this 1st day of July, 2020, by and between the County of Sierra doing business by and through the Sierra County Department of Health and Human Services (collectively referred to herein as the “County” and Progress House, Inc. referred to herein as the “Business Associate”)

**Recitals**

**WHEREAS**, County has heretofore or contemporaneously with the execution of this Agreement entered into an Agreement for Professional Services (the “Professional Services Agreement”) whereby Business Associate provides certain services to County and its clients and citizens which involves the access and use of certain information pertaining to individuals which information is required to be kept confidential and protected under the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-101 (referred to herein as “HIPAA”) and the regulations adopted pursuant to the Act; and

**WHEREAS**, pursuant to the Professional Services Agreement County will make available and/or transfer to Business Associate, and/or Business Associate will generate or otherwise access confidential, personally identifiable health information in conjunction with services delivered on behalf of the County; and

**WHEREAS**, such information may be used or disclosed only in accordance with HIPAA and the applicable regulations [including without limitation, 45 CFR §§ 164.502(e); 164.504(e)] issued pursuant to the Health Insurance Portability and Accountability Act [42 USC §§ 1320– 1320d-8] and the terms of this Agreement, or more stringent provisions of the law of the State of California.

**NOW THEREFORE**, In consideration of the obligations, benefits and compensation provided to Business Associate under the provisions of the Professional Services Agreement and in order to ensure that said Agreement remains valid and complies with HIPAA, the parties agree as follows:

1. As used herein and with reference to the obligations under HIPAA, Protected Health Information (“PHI”) shall mean individually identifiable health information including, without limitation, all information, data, documentation, and materials of any nature or form, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI shall include but not be limited to individually identifiable information received from or on behalf of the County as more fully defined in 45 CFR § 164.501, and any amendments thereto.
2. County shall provide to Business Associate a copy of the current Notice of Privacy Practices and any relevant information on changes to or agreed upon restrictions relating to legal permissions for the use or disclosure of PHI.
3. Business Associate agrees that it shall not receive, create, use or disclose PHI except as follows:
  - a. (1)solely for meeting its obligations as set forth in the Professional Services Agreement and any other agreements between the Parties evidencing their business relationship or  
(2) as required by applicable law, rule or regulation, or by accrediting or credentialing organization to whom Covered Entity is required to disclose such information or as otherwise permitted under this Agreement, the Arrangement Agreement (if consistent

with this Agreement and the HIPAA Privacy Rule), or the HIPAA Privacy Rule, and (3) as would be permitted by the HIPAA Privacy Rule if such use or disclosure were made by Covered Entity;

- b. If necessary for the proper management and administration of Business Associate or to carry out legal responsibilities of Business Associate, PHI may only be disclosed to another person/entity for such purposes if:
  - Disclosure is required by law; or
  - Where Business Associate obtains reasonable assurances from the person to whom disclosure is made that the PHI released will be held confidentially, and only may be used or further disclosed as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and
  - Person agrees to notify Business Associate of any breaches of confidentiality;
- c. To permit Business Associate to provide data aggregation services relating to the health care operations of the County.

4. Business Associate and County agree that neither of them will request, use or release more than the minimum amount of PHI necessary to accomplish the purpose of the use, disclosure or request.

5. Business Associate will establish and maintain appropriate safeguards to prevent any unauthorized use or disclosure of PHI.

6. Business Associate agrees that it shall immediately report to County any unauthorized uses/disclosures of which it becomes aware, and shall take all reasonable steps to mitigate the potentially harmful effects of such breach.

7. Business Associate hereby indemnifies County and agrees to hold County harmless from and against any and all losses, expense, damage or injury that County may sustain as a result of, or arising out of, Business Associate's, or its agent's or subAgreementor's, unauthorized use or disclosure of PHI.

8. Business Associate shall carry comprehensive general liability insurance.

9. Business Associate shall ensure that all of its subcontractors and agents are bound by the same restrictions and obligations contained herein whenever PHI is made accessible to such subcontractors or agents, and shall give prior notice to County of any subcontractors or agents who are to be given access to PHI.

10. Business Associate shall make all PHI and related information in its possession available as follows:

- a. To the individual or his/her personal representative or to the County, to the extent necessary to permit County to fulfill any obligation to allow access for inspection and copying in accordance with the provisions of 45 CFR § 164.524 and any subsequent amendments to the regulations;
- b. To the individual or his/her personal representative or to the County, to the extent necessary to permit County to fulfill any obligation to account for disclosures of PHI in accordance with 45 CFR § 164.528 and any subsequent amendments to the regulations.

11. Business Associate shall make PHI available to County to fulfill County's obligation to amend PHI and related information in accordance with 45 CFR § 164.526, and shall, as directed by County, incorporate any amendments or related statements into the information held by Business Associate and any subcontractors or agents.

12. Business Associate agrees to make its internal practices, books and records relating to the use or disclosure of information received from or on behalf of County available to the U.S. Secretary of Health and Human Services, or the Secretary's designee, for purposes of determining compliance with the privacy regulations, and any amendments thereto.
13. Upon termination of this Agreement, Business Associate agrees, at the option of County, to return or destroy all PHI created or received from or on behalf of County. Business Associate agrees that it will not retain any copies of PHI except as required by law. If PHI is destroyed, Business Associate agrees to provide County with appropriate documentation/certification evidencing such destruction. If return or destruction of all PHI, and all copies of PHI, is not feasible, Business Associate agrees to extend the protections of this Agreement to such information for as long as it is maintained. Termination of this Agreement shall not affect any of its provisions that, by wording or nature, are intended to remain effective and to continue in operation.
14. The PHI and any related information created or received from or on behalf of County is and shall remain the property of the County. Business Associate agrees that it acquires no title in or rights to the information, including any de-identified information.
15. Notwithstanding anything in this Agreement to the contrary, County shall have the right to immediately terminate the Professional Services Agreement or any other agreement between the parties if County determines that Business Associate has violated any material term of this Agreement. If County reasonably believes that Business Associate will violate a material term of this Agreement and, where practicable, County gives written notice to Business Associate of such belief within a reasonable time after forming such belief, and Business Associate fails to provide adequate written assurances to County that it will not breach the cited term of this Agreement within a reasonable period of time given the specific circumstances, but in any event, before the threatened breach is to occur, then County shall have the right to immediately terminate the Professional Services Agreement or any other agreement between the parties. In the event of termination as described in this Paragraph, County shall have the right to contract for replacement service through another entity or provider, with Business Associate responsible for paying any difference in cost.
16. Notwithstanding any rights or remedies under this Agreement or provided by law, County retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of PHI by Business Associate, any of its subcontractors or agents, or any third party who has received PHI from Business Associate.
17. This Agreement shall be binding on the parties and their successor, but neither party may assign the agreement without the prior written consent of the other, which consent shall not be unreasonably withheld.
18. The obligations to safeguard the confidentiality and security of PHI imposed herein shall survive the termination of this Agreement.
19. Any ambiguities in this Agreement shall be resolved in favor of an interpretation that promotes compliance with HIPAA and regulations promulgated thereunder. The parties agree that any modifications to those laws shall modify the obligations of the parties hereunder without the need for formal amendment of the Agreement. Any other amendments to this Agreement shall not be effective without the written agreement of both parties.

20. Any notice to the other party pursuant to this Agreement shall be deemed provided if sent by first class United States mail, postage prepaid, as follows:

To County: County Of Sierra  
Department of Human Services  
P.O. Box 265  
Loyalton, CA 96118

To Contractor: Progress House Administration  
P.O. Box 1666  
Placerville, CA 95667

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day here first above written.

“COUNTY”

“CONTRACTOR”

COUNTY OF SIERRA

\_\_\_\_\_  
Jim Beard, Chairman  
Sierra County Board of Supervisors

\_\_\_\_\_  
Reyna V. Schlichter  
Executive Director  
Progress House Inc.

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Heather Foster  
Clerk of the Board

\_\_\_\_\_  
David Prentice  
County Counsel