COUNTY OF LOS ANGELES

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Director

CORA E. FULLMORE, L.C.S.W.
Interim Chief Deputy Director

RODERICK SHANER, M.D.
Medical Director

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DEPARTMENT OF MENTAL HEALTH

http://dmh.co.la.ca.us

550 SOUTH VERMONT AVENUE, LOS ANGELES, CALIFORNIA 90020

Reply To: (213) 738-4601
Fax No.: (213) 386-1297

May 8, 2003

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

APPROVAL OF FOUR AGREEMENTS FOR TEMPORARY PSYCHIATRIST PERSONNEL SERVICES FOR THE DEPARTMENT OF MENTAL HEALTH (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and instruct the Director of Mental Health to prepare, sign, and execute Psychiatrist Personnel Services Agreements, listed in Attachment I, using an Agreement format substantially similar to Attachment II, with four qualified personnel agencies for the provision of temporary psychiatrist personnel services for the Department of Mental Health (DMH), on an as needed basis. These qualified agencies have the experience in the recruitment and referral of adult and child and adolescent psychiatrists to provide psychiatric evaluations, medication support, crisis intervention treatment, consultation, and training. These agencies will continue to provide psychiatrists with specialized training, skills, and expertise to fill DMH's temporary and intermittent need for psychiatrist personnel. The term of these agreements will be effective July 1, 2003 through June 30, 2004, with two automatic one-year renewals at the sole discretion of the Director of Mental Health. The term of each Agreement will end on June 30, 2006. Under the agreements, Contractors will be paid an established daily rate of $850 for the provision of psychiatrists.

2. Delegate authority to the Director of Mental Health to prepare, sign, and execute future new agreements with other qualified agencies and amendments to the agreements, provided that: 1) the County's total payments to Contractor under the Agreement for each fiscal year shall not exceed a change of twenty percent from the applicable contracted daily rate; 2) any increase shall be used to provide additional services or to reflect program and/or policy changes; 3) the Board of

Supervisors has appropriated sufficient funds for all changes; 4) approval of County Counsel and the Chief Administrative Officer or his designee is obtained prior to any such Amendment; 5) the parties may by mutual written Amendment agree to reduce programs or services without reference to the twenty percent limitation; and 6) the Director of Mental Health shall notify the Board of Supervisors of Agreement changes in writing within 30 days after execution of each Amendment.

This new delegated authority language replaces previously approved delegated authority language and will be used in future Board Letters. This new delegated authority language will allow the Director of Mental Health to reduce programs and services without reference to the 20% limitation.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

Board approval is required to allow DMH to continue to use qualified agencies that are able to place temporary psychiatrists on an intermittent and as needed basis to fill unanticipated service gaps when DMH's psychiatrists terminate County employment. This gives DMH the ability to recruit and hire permanent employees to fill vacant psychiatrist positions without interrupting patient care. The need for temporary psychiatrist personnel continues to exist for DMH due to occasional retention issues and the inherent difficulties faced in recruiting and hiring qualified, culturally competent psychiatrists while there is shortage of psychiatrists nationally.

The current five temporary psychiatric personnel services agreements with Daniel and Yeager, J and C Nationwide, Locum Tenens.com, Psychiatrists Only, and Staff Care, Inc. were approved by your Board on June 20, 2000 and will expire on June 30, 2003. Without approval of temporary psychiatric personnel services agreements, DMH may not be able to provide critical psychiatric evaluations, medication support, and crisis intervention treatment when recruitment of qualified, permanent County psychiatrists is delayed or lengthy. Continuation of these temporary contracted services will provide DMH with a viable alternative to handling emergency situations and meeting emergent or unanticipated needs without compromising the quality of patient care.

Implementation of Strategic Plan Goals

The recommended Board actions are consistent with the County's Programmatic Goal 7, Health and Mental Health, within the Countywide Strategic Plan. The ability to meet psychiatrist staffing needs on a temporary and intermittent basis will enhance DMH's effectiveness in service delivery.

FISCAL IMPACT/FINANCING

Use of these agreements will be determined by the need for qualified temporary personnel, and funding will be allocated on an as needed basis, utilizing vacant budgeted positions. Reimbursement will be based on contracted daily rates established by DMH. A Request for Appropriation Adjustment to transfer funds from Salaries and Employee Benefits to Services and Supplies will be prepared, as needed, to provide the necessary appropriation for these contracted temporary psychiatrist personnel services for FYs 2003-2004, 2004-2005, and 2005-2006.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to California Government Code Section 31000, your Board is authorized to contract for special services and/or to delegate such function to its constituent County departments to utilize personnel who are specially trained, experienced, expert and competent to perform the special services. These agreements will not be utilized to replace County employees impacted by program or budget curtailments.

Since July 1, 2000, DMH has utilized the services of five temporary contract agencies to provide qualified psychiatrists with the training and skills to perform psychiatric evaluations, medication support, and crisis intervention treatment to seriously mentally ill (SMI) adults, seriously emotionally disturbed (SED) children, adolescents, and their families as well as consultation and training to mental health professionals. The use of these qualified temporary agencies on an intermittent and as needed basis is necessary to meet emergent or unanticipated needs when existing County employees are unavailable, cannot be transferred from other locations, or vacant positions cannot be filled timely with permanent new hires.

Upon Board approval, the new agreements with four agencies (Attachment I) will be effective July 1, 2003 through June 30, 2004, with two automatic one-year renewals at the sole discretion of the Director of Mental Health. These agreements contain contracted daily reimbursement rates as established by DMH. The contractors will be paid monthly in arrears for the provision of temporary psychiatrist personnel services.

DMH has met the requirements set forth in the Director of Human Resources' April 2, 1997, letter regarding personnel services agreements. DMH consulted with the Chief Administrative Office (CAO) Employee Relations Division and the Department of Human Resources (DHR) and met with the Union of American

Physicians and Dentists (UAPD). Both the CAO Employee Relations Division and DHR were notified of the April 28, 2003, meeting and indicated that they had no issues with DMH's proposed Board action. At the meeting on April 28, 2003, the representative indicated that UAPD had no objection to DMH's utilization of temporary psychiatrists on an as needed basis.

The Agreement format contains a provision that requires each contractor to give first consideration for any temporary employment openings to qualified permanent County employees who are targeted for layoff or qualified former County employees who are on the reemployment list during the term of the agreements. DMH will work with the Director of Human Resources and each contractor to ensure that all employees who are laid off are given the opportunity to apply at each agency.

In compliance with Board policy, the Agreement format requires contractors to give first consideration for any temporary employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program or General Relief Opportunities for Work (GROW) Program who meet the contractors' minimum qualifications for the open positions.

Due to current budgetary constraints, the Agreement format excludes a cost-of-living adjustment provision. Attachment III details the contracting with Minority/Women – Owned Firms Percentage of Ownership in firms contracting with DMH. The Agreement, which has been approved as to form by County Counsel, includes revised Health Insurance Portability and Accountability Act of 1996 (HIPAA) language. Since the contractors do not perform health care and do not receive protected health information (PNI) at all, the contractors are not a Business Associate of the County. However, as independent contractors provided to us by the contractors, the psychiatrists providing services must receive HIPAA training. Therefore, the Agreement format includes a revised HIPAA contract provision to reflect HIPAA training as a required qualification for psychiatrists performing services under the Agreement. The proposed actions have been reviewed by UAPD, the Chief Administrative Office and its Employee Relations Division, the Department of Human Resources, and DMH administration from the Human Resources and Finance Bureaus.

Pursuant to Los Angeles County Code Section 2.121.250, these agreements are not Proposition A contracts because these services are needed on a temporary or intermittent basis, and authority to contract is expressly provided in California Government Code Section 31000.

CONTRACTING PROCESS

Upon Board approval, the Director of Mental Health will have delegated authority to execute temporary psychiatrist services agreements with four qualified, temporary psychiatrist personnel agencies, as listed in Attachment I, and other new qualified agencies, as deemed necessary, who have the specialized experience in the recruitment and referral of adult and child and adolescent psychiatrists to perform psychiatric evaluations, medication support, and crisis intervention treatment to SMI adults and SED children, adolescents, and their families and consultation and training to mental health professionals.

Without Board approval of these agreements, temporary psychiatrist personnel will not be available to DMH to fill the potential service gaps impacted by the repeated and lengthy recruitment of psychiatrists throughout Los Angeles County.

IMPACT ON CURRENT SERVICES

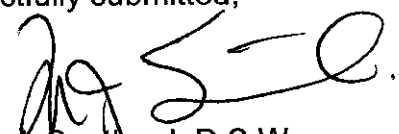
Board approval will allow the continuation of the agreements for temporary psychiatrist personnel services without interruption. Without Board approval, DMH will be negatively impacted and, thus, will endure hardship in handling critical workload and meeting emergent or unanticipated needs when hiring is delayed or lengthy.

CONCLUSION

Temporary contracted services provide a viable option for DMH when the recruitment and retention of permanent County employees is difficult. Continuation of these services on an as needed basis is necessary to fill DMH's unanticipated service gaps.

The Department of Mental Health will need one (1) copy of the adopted Board action. It is requested that the Executive Officer, Board of Supervisors, notify the Department of Mental Health's Contracts Development and Administration Division at (213) 738-4684, when this document is available.

Respectfully submitted,



Marvin J. Southard, D.S.W.
Director of Mental Health

MJS:RK:KT:lw

Attachments (3)

c: Chief Administrative Officer
County Counsel
Department of Human Resources, Steve Hill
Union of American Physicians and Dentists
Chairperson, Mental Health Commission

COUNTY OF LOS ANGELES - DEPARTMENT OF MENTAL HEALTH
Contracts Development and Administration Division

LIST OF CONTRACTORS FOR TEMPORARY PSYCHIATRIST PERSONNEL SERVICES

	Contractor/Firm	Agreement Term
1	CompHealth 4021 South 700 E., Suite 300 Salt Lake City, Utah 84107 Scott Beck President	3 years
2	Daniel & Yeager 8800 Roswell Road, Suite B-270 Atlanta, Georgia 30350 Johnny Walker Director of Government Contracting	3 years
3	J&C Nationwide 1150 Hammond Drive, Suite A-1200 Atlanta, Georgia 30328 Randy Weikle Director	3 years
4	Staff Care 5001 Statesman Drive Irving, Texas 75063 Lauren Zindel-Etter Senior Marketing	3 years

ATTACHMENT II

CONTRACTOR:

_____

Contract Number

_____

_____

Business Address:

_____

_____

Supervisorial District(s) _____

TEMPORARY PSYCHIATRIST SERVICES AGREEMENT

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EXHIBIT A: DESCRIPTION OF SERVICES

EXHIBIT B: BILLING, PAYMENT AND SCHEDULE OF RATES

CONTRACTOR NO. _____

TEMPORARY PSYCHIATRIST SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 200__, by and between the County of Los Angeles (hereafter "County"), and

_____

_____

_____

_____

(hereafter "Contractor")

Business Address:

_____

_____

_____

_____

WHEREAS, County desires to provide to those persons in Los Angeles County who qualify therefor certain mental health services contemplated and authorized by the Bronzan-McCorquodale Act, California Welfare and Institutions Code Section 5600 et seq.; and

WHEREAS, Contractor is equipped, staffed, and prepared to provide these services as described in this Agreement; and

WHEREAS, these services shall be provided by Contractor in accordance with all applicable Federal, State and local laws, required licenses, ordinances, rules, Regulations, manuals, guidelines, and directives, which may include, but are not necessarily limited to, the following: Bronzan-McCorquodale Act, California Welfare and Institutions Code Section 5600 et seq., including, but not limited to, Sections 5600.2, 5600.3, 5600.4, 5600.9, 5602, 5608, 5651, 5670, 5670.5,

5671, 5671.5, 5672, 5705, 5709, 5710, 5716, 5719, 5721, 5722, 5751.2, and 5900 et seq.; Medi-Cal Act, California Welfare and Institutions Code Section 14000 et seq., including, but not limited to, Section 14132.44; California Welfare and Institutions Code Section 17601 et seq.; California Work Opportunities and Responsibilities to Kids Act, California Welfare and Institutions Code Section 11200 et seq.; California Government Code Sections 26227 and 53703; Title XIX of the Social Security Act, 42 United States Code Section 1396 et seq.; Title IV of the Social Security Act, Part B of Title XIX of the Public Health Service Act, 42 United States Code Section 300x et seq.; California Penal Code Section 11164 et seq.; Title 9 and Title 22, including, but not limited to, Sections 51516, 70001, 71001, 72001 et seq., and 72443 et seq. of the California Code of Regulations; State Department of Mental Health's Cost Reporting/Data Collection Manual; State Department of Mental Health's Short-Doyle/Medi-Cal Manual for the Rehabilitation Option and Targeted Case Management; State Department of Mental Health's Short-Doyle/Medi-Cal Automated Cost Reporting System Users Manual; policies and procedures developed by County; State's Medicaid Plan; and policies and procedures which have been documented in the form of Policy Letters issued by State Department of Mental Health; and/or for State Department of Health Services; and

WHEREAS, the Department of Mental Health ("DMH") has determined that existing staff of DMH do not have sufficient manpower, that it is difficult to recruit personnel to perform the services hereunder, and that the services to be provided hereunder are of a professional and temporary nature; and

WHEREAS, Contractor is qualified and licensed under the laws of the State of California to engage in the business of providing the services described herein; and

WHEREAS, Contractor is willing to provide the services described herein for and in consideration of the payments provided under this Agreement and under the terms and conditions hereinafter set forth; and

WHEREAS, pursuant to Sections 26227 and 31000 of the California Government Code, County is authorized to contract for these services.

NOW, THEREFORE, in consideration of the promises and covenants hereafter contained the parties hereto agree as follows:

1. **TERM AND TERMINATION**: The term of this Agreement shall commence on July 1, 2003 and shall continue in full force and effect through June 30, 2004. The term of this Agreement may be renewed on a year-to-year basis for up to two additional years at the sole discretion of the Director of Mental Health. Except as otherwise set forth below, this Agreement may be terminated at any time by either party, with or without cause, upon the giving of at least thirty (30) calendar days prior written notice thereof to the other.

Director may terminate this Agreement immediately if Contractor, its officers, employees or agents, including its independent contractors, fail to comply with the terms of this Agreement or any directions by or on behalf of County issued pursuant hereto.

Director may also terminate this Agreement, immediately if Contractor, its officers, employees or agents, including its independent contractors, engage in, or if Director has reasonable justification to believe that Contractor, or such employees or agents, including Contractor's independent contractors, may be engaging in a course of conduct which poses an imminent danger to the life or health of County patients.

County's failure to exercise this right of termination shall not constitute waiver of such right, and the same may be exercised at any subsequent time.

Immediate termination hereunder shall be effected by delivery to Contractor of a written "Notice of Immediate Termination" which shall be effective upon Contractor's receipt of such "Notice of Immediate Termination".

In addition, the performance of services under this Agreement may be terminated when such action is deemed by County to be in its best interest. Termination of services shall be effected by delivery to Contractor of a written "Notice of Termination" specifying the extent to which performance of services under this Agreement is terminated, and the date upon which such termination becomes effective.

After receipt of the "Notice of Termination", and except as otherwise directed by County, Contractor shall stop services under this Agreement on the date and to the extent specified in such "Notice of Termination".

2. **ADMINISTRATION**: Director shall have the authority to administer this Agreement on behalf of County. Contractor shall designate in writing a Contract Manager who shall function as liaison with County regarding Contractor's performance hereunder.

3. **DESCRIPTION OF SERVICES**: Contractor agrees to provide DMH upon request, with the services described in Exhibit A, attached hereto and incorporated herein by reference.

4. **BILLING AND PAYMENT**: All billings by Contractor for services provided pursuant to this Agreement shall be in accordance with the terms, conditions and rates set forth in Exhibit B, attached hereto and incorporated herein by reference.

5. **NONEXCLUSIVITY**: Contractor acknowledges that it is not the exclusive provider to County of the services to be provided under this Agreement, and that County has, or intends to enter into, contracts with other providers of said services. Contractor agrees to provide DMH during the term of this Agreement with the services described in Exhibit A.

6. **RECORDS AND AUDITS:**

A. Financial Records: Contractor shall prepare and maintain adequate financial records in accordance with generally accepted accounting principles. All such records shall be sufficient to substantiate all charges billed to County in the performance of this Agreement. All financial records of Contractor pertaining to this Agreement, including accurate books and records of accounts of its costs and operating expenses, and all records of services and personnel provided, as well as all other financial records pertaining to this Agreement shall be retained by Contractor for a minimum of five (5) years following the end of County's July 1 through June 30 fiscal year in which service was rendered. During such five (5) year period, as well as during the term of this Agreement, all such records shall be made available by Contractor at a location in Los Angeles County during normal business hours to representatives of County's Auditor-Controller, County's Department of Health sufficient to substantiate all charges billed to County in the performance of this Agreement. All financial records of Contractor pertaining to this Agreement, including accurate books and records of accounts of its costs and operating expenses, and all records of services and personnel provided, as well as all other financial records pertaining to this Agreement shall be retained by Contractor for a minimum of five (5) years following the end of County's July 1 through June 30 fiscal year in which service was rendered. During such five (5) year period, as well as during the term of this Agreement, all such records shall be made available by Contractor at a location in Los Angeles County during normal business hours to representatives of County's Auditor-controller, County's Department of Health Services and the State of California for purposes of inspection and audit.

B. Federal Access to Records: If, and to the extent that, Section 1861(v)(1)(I) of the Social Security Act [42 U.S.C. Section 1395x(v)(1)(I)] is applicable, Contractor agrees that for a period of five (5) years following the furnishing of services under this Agreement, Contractor shall maintain and make available, upon written request, to the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States, or to any of their duly authorized representatives, the contract, books, documents and records of Contractor which are necessary to verify the nature and extent of the cost of services provided hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through any subcontract with a value or cost of Ten Thousand Dollars ($10,000) or more over a twelve-month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents and records of the subcontractor.

C. Audit Reports: In the event that an audit is conducted of Contractor by any Federal or State auditor, Contractor shall file a copy of such audit report(s) with County's Auditor-Controller within thirty (30) days of receipt thereof unless otherwise provided under this Agreement, or under applicable State or Federal regulations. To the extent permitted by law, County shall maintain the confidentiality of such audit report(s).

D. Audit/Compliance Review: In the event County representatives conduct an audit/compliance review of Contractor, Contractor shall fully cooperate with County's representatives. Contractor shall allow County representatives access to all records of services rendered and all financial records and reports pertaining to this Agreement and shall allow photocopies to be made of these documents utilizing Contractor's photocopier, for which County shall reimburse Contractor its customary charge for record copying services, if requested. Director shall provide Contractor with at least ten (10) working days prior written notice of any audit/compliance review.

County may conduct a statistical sample audit/compliance review of all claims paid by County during a specified period. The sample shall be determined in accordance with generally accepted auditing standards. An exit conference shall be held following the performance of such audit/ compliance review at which time the results shall be discussed with Contractor. Contractor shall be provided with a copy of any written evaluation reports.

Contractor shall have the opportunity to review County's findings for Contractor, and Contractor shall have thirty (30) days after receipt of County's audit/compliance review results to provide documentation to the County representatives to resolve the audit exceptions. If, at the end of the thirty (30) day period, there remain audit exceptions which have not been resolved to the satisfaction of County's representatives, then the exception rate found in the audit or sample shall be applied to the total County payment made to Contractor for all claims paid during the audit/compliance review period to determine Contractor's liability to County.

E. County Audit Settlements: If, at any time during the term of this Agreement or at any time within five (5) years after the expiration or earlier termination of this Agreement, authorized representatives of County conduct an audit of-Contractor regarding the services provided to County hereunder and if such audit finds that County's dollar liability for such services is less than payments made by County to Contractor, then Contractor agrees that the difference shall be either: (1) repaid forthwith by Contractor to County by cash payment, or (2) at Director's option, deducted from any further amount due Contractor from County. If such audit finds that County's dollar liability for services provided hereunder is more than

payments made by County to Contractor, then the difference shall be paid forthwith to Contractor by County by cash payment.

F. Failure to Comply: Failure of Contractor to comply with the provisions of this Paragraph shall constitute a material breach of this Agreement upon which County shall give Contractor written "Notice of Material Breach". If such breach is not cured within ten (10) business days following the giving of such Notice, then County may, at County's sole discretion, immediately terminate this Agreement pursuant to the provisions of Paragraph 1, TERM AND TERMINATION, in the body of this Agreement. County's failure to exercise this right of termination shall not constitute waiver of such right, and the same may be exercised at any subsequent time.

7. **CONFIDENTIALITY**: Contractor shall maintain the confidentiality of all records and information, including, but not limited to, claims, County records, patient/client records and information, and MIS records, in accordance with WIC Sections 5328 through 5330, inclusive, and all other applicable County, State, and Federal laws, ordinances, rules, regulations, manuals, guidelines, and directives, relating to confidentiality. Contractor shall require all its officers, employees, and agents providing services hereunder to acknowledge, in writing, understanding of, and agreement to fully comply with, all such confidentiality provisions. Contractor shall indemnify and hold harmless County, its officers, employees, and agents, from and against any and all loss, damage, liability, and expense arising from any disclosure of such records and information by Contractor, its officers, employees, or agents.

8. **PATIENTS'/CLIENTS' RIGHTS**: Contractor shall comply with all applicable patients'/clients' rights provisions, including, but not limited to, WIC Section 5325 et seq., CCR Title 9, Section 850 et seq., and CCR Title 22. Further, Contractor shall comply with all patients'/clients' rights policies provided by County. County Patients' Rights Advocates shall be given access by Contractor to all patients/clients, patients'/clients' records, and Contractor's personnel in order to monitor Contractor's compliance with all applicable statutes, regulations, manuals and policies.

9. **REPORTING OF PATIENT/CLIENT ABUSE AND RELATED PERSONNEL REQUIREMENTS**:

A. Elders and Dependent Adults Abuse: Contractor, and all persons employed or subcontracted by Contractor, shall comply with WIC Section 15630 et seq. and shall report all known or suspected instances of physical abuse of elders and dependent adults under the care of Contractor either to an appropriate County adult protective services agency or to a local law enforcement agency, as mandated by WIC Sections 15630, 15631 and 15632. Contractor, and all persons employed or subcontracted by Contractor, shall make the report on such abuse, and shall submit all required information, in accordance with WIC Sections 15630, 15633 and 15633.5.

B. Minor Children Abuse: Contractor, and all persons employed or subcontracted by

Contractor, shall comply with California Penal Code (hereafter "PC") Section 11164 et seq. and shall report all known or suspected instances of child abuse to an appropriate child protective agency, as mandated by California Penal Code 11164, 11165.8 and 11166. Contractor, and all persons employed or subcontracted by Contractor, shall make the report on such abuse, and shall submit all required information, in accordance with PC Sections 11166 and 11167.

C. Contractor Staff:

(1) Contractor shall assure that any person who enters into employment as a care custodian of elders, dependent adults or minor children, or who enters into employment as a health or other practitioner, prior to commencing employment, and as a prerequisite to that employment, shall sign a statement on a form provided by Contractor in accordance with the above code sections to the effect that such person has knowledge of, and will comply with, these code sections.

(2) Contractor shall assure that clerical and other nontreatment staff who are not legally required to directly report suspected cases of abuse, consult with mandated reporters upon suspecting any abuse.

(3) For the safety and welfare of elders, dependent adults, and minor children, Contractor shall, to the maximum extent permitted by law, ascertain arrest and conviction records for all current and prospective employees and shall not employ or continue to employ any person convicted of any crime involving any harm to elders, dependent adults, or minor children.

(4) Contractor shall not employ or continue to employ, or shall take other appropriate action to fully protect all persons receiving services under this Agreement concerning, any person whom Contractor knows, or reasonably suspects, has committed any acts which are inimical to the health, morals, welfare, or safety of elders, dependent adults or minor children, or which otherwise make it inappropriate for such person to be employed by Contractor.

10. **NONDISCRIMINATION IN SERVICES:**

A. Contractor shall not discriminate in the provision of services hereunder because of race, religion, national origin, ancestry, sex, age, marital status, or physical or mental handicap or medical conditions, in accordance with requirements of Federal and State law. For the purpose of this Paragraph 16, discrimination in the provision of services may include, but is not limited to, the following: denying any person any service or benefit or the availability of a facility; providing any service or benefit to any person which is different, or is provided in a different manner or at a different time, from that provided to others; subjecting any person to segregation or separate treatment in any matter related to the receipt of any service; restricting

any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirement or condition which persons must meet in order to be provided any service or benefit. Contractor shall take affirmative action to ensure that intended beneficiaries of this Agreement are provided services without regard to ability to pay or source of payment, race, religion, national origin, ancestry, sex, age, marital status, or physical or mental handicap, or medical conditions.

B. Contractor shall establish and maintain written complaint procedures under which any person applying for or receiving any services under this Agreement may seek resolution from Contractor of a complaint with respect to any alleged discrimination in the rendering of services by Contractor's personnel. Such procedures shall also include a provision whereby any such person, who is dissatisfied with Contractor's resolution of the matter, shall be referred by Contractor to Director for the purpose of presenting his complaint of the alleged discrimination. Such complaint procedures shall also indicate that if such person is not satisfied with County's resolution or decision with respect to the complaint of alleged discrimination, such person may appeal the matter to the State, if appropriate.

C. If direct services (i.e., 24-hour services, case management services, day services, and outpatient services) are provided hereunder, Contractor shall have admission policies which are in accordance with CCR Title 9, Sections 526 and 527, and which shall be in writing and available to the public. Contractor shall not employ discriminatory practices in the admission of any person, assignment of accommodations, or otherwise. Any time any person applies for services under this Agreement, such person shall be advised by Contractor of the complaint procedures described in the above paragraph. A copy of such complaint procedures shall be posted by Contractor in a conspicuous place, available and open to the public, in each of Contractor's facilities where services are provided under this Agreement.

11. **NONDISCRIMINATION IN EMPLOYMENT:**

A. Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to, or because of, race, religion, national origin, ancestry, sex, age, marital status, physical handicap, or political affiliation, and in compliance with all applicable Federal and State anti-discrimination laws and regulations.

B. Contractor shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to race, religion, national origin, ancestry, sex, age, marital status, physical handicap, or political affiliation. Such action shall include, but is not limited to, the following: employment, upgrading,

demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

C. Contractor shall deal with its subcontractors, bidders, or vendors without regard to or because of race, religion, ancestry, national origin, sex, age, marital status, physical handicap, or political affiliation.

D. Contractor shall allow County representatives access to its employment records during regular business hours to verify compliance with the provisions of this Paragraph 17 when so requested by Director.

E. If County finds that any of the above provisions has been violated, the same shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Contractor has violated State or Federal anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Agreement.

F. In the event that Contractor violates any of the anti-discrimination provisions of this Paragraph 17, County shall be entitled, at its option, to the sum of FIVE HUNDRED DOLLARS ($500) pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Agreement.

12. **FAIR LABOR STANDARDS**: Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for services performed by Contractor's employees for which County may be found jointly or solely liable.

13. **INDEMNIFICATION AND INSURANCE**:

A. Indemnification: Contractor shall indemnify, defend and hold harmless County and County Special Districts, and their elected and appointed officers, employees, and agents, from and against any and all liability and expense, including defense costs and legal fees, arising from or connected with claims and lawsuits for damages or workers' compensation benefits relating to Contractor's operations or its services, which result from bodily injury, death, personal injury, or property damage, including physical damage or loss of Contractor's property in the care, custody or control of Contractor. Contractor shall not be obligated to indemnify for liability and expense arising from the active negligence of the County.

B. Insurance: Without limiting Contractor's indemnification of County and during the term of this Agreement, Contractor shall provide and maintain at its own expense the following programs of insurance. Such programs and evidence of insurance shall be satisfactory to County and shall be primary to and not contributing with any other insurance maintained by County. Certificates or other evidence of coverage and certified copy(ies) of additional insured endorsements shall be delivered to Department of Mental Health, Attention: Chief, Contracts Development and Administration Division prior to commencing services under this Agreement, shall specifically identify this Agreement, and shall contain express conditions that County is to be given written notice by registered mail at least thirty (30) days in advance of any modification or termination of insurance.

Failure by Contractor to procure and maintain the required insurance shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

(1) Liability: Such insurance shall be endorsed naming the County of Los Angeles as an additional insured and shall include, but not be limited to:

(a) General Liability: General liability insurance written on a commercial general liability policy Form CG 00 01 or its equivalent covering the hazards of premises/operations, contractual, independent contractors, advertising, products completed operations, broad form property damage, and personal injury with a combined single limit of not less than ONE MILLION DOLLARS ($1,000,000) per occurrence and TWO MILLION DOLLARS ($2,000,000) aggregate with no exclusions.

(b) Business Automobile Liability: Form CA 00 01 or its equivalent, endorsed for all owned, non-owned and hired vehicles (involved in the provision of services under this Agreement) and non-owned automobile hazards with a combined single limit of ONE MILLION DOLLARS ($1,000,000) per occurrence.

(2) Professional Liability: (ERRORS & OMISSIONS) Insurance covering professional services which includes any service requiring State licensing as a professional or requiring in-depth, specialized knowledge not available to a member of the general public such as physicians, psychologists, drug counselors, attorneys, accountants, computer programmers, architects, engineers and surveyors with a limit of ONE MILLION DOLLARS ($1,000,000) per occurrence, TWO MILLION DOLLARS ($2,000,000) aggregate with no exclusions. The policy should be on a claims made form and shall be required to provide an extended two-year reporting period commencing upon termination of said Agreement. (Limits required for obstetricians,

gynecologists, and surgeons should be a least TWO MILLION DOLLARS ($2,000,000) per occurrence, THREE MILLION DOLLARS ($3,000,000) aggregate.)

(3) Workers' Compensation: With statutory limits and employers' liability insurance with limits of not less than ONE MILLION DOLLARS ($1,000,000) per accident, ONE MILLION DOLLARS ($1,000,000) per employee for disease and ONE MILLION DOLLARS ($1,000,000) aggregate policy limit for all diseases.

14. **FAILURE TO PROCURE INSURANCE**: Failure on the part of Contractor to procure or maintain the required insurance in Paragraph 13 above shall constitute a material breach of this Agreement upon which County shall give Contractor written "Notice of Material Breach". If such breach is not cured, retroactive to the effective date of this Agreement, within ten (10) business days following the giving of such Notice, then County may, at County's sole discretion, immediately terminate this Agreement pursuant to the provisions of Paragraph 1, TERM AND TERMINATION, of this Agreement. County's failure to exercise this right of termination shall not constitute waiver of such right, and the same may be exercised at any subsequent time.

15. **CONTRACTOR'S OFFICES**: Contractor's business address is noted in Paragraph 40, NOTICES, below. Contractor shall notify in writing County's Department of Mental Health of any change in its business address at least ten (10) working days prior to the effective date thereof. If during the term of this Agreement, the corporate or other legal status of Contractor changes, or the name of Contractor changes, then Contractor shall notify County's DMH, in writing detailing such changes at least thirty (30) calendar days prior to the effective date thereof.

16. **NON-APPROPRIATION OF FUNDS CONDITION**: Notwithstanding any other provision of this Agreement, County shall not be obligated for Contractor's performance hereunder during any of County's July 1 through June 30 fiscal years unless and until County's Board of Supervisors appropriates funds for this Agreement in County's Budget for each such fiscal year. If County's Board of Supervisors fails to appropriate funds for any such fiscal year, this Agreement shall be deemed to have terminated on June 30th of the prior fiscal year. County shall notify Contractor in writing of such non-appropriation of funds at the earliest possible date.

17. **WARRANTY AGAINST CONTINGENT FEES**: Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for any commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business. For Contractor's breach or violation of this warranty, County may, in its sole discretion, deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

18. **CONFLICT OF INTEREST:**

A. No County employee whose position in County enables such employee to influence the award or administration of this Agreement or any competing agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by Contractor or have any direct or indirect financial interest in this Agreement. No officer or employee of Contractor who may financially benefit from the provision of services hereunder shall in any way participate in County's approval, or ongoing evaluation, of such services, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such services.

B. Contractor shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the term of this Agreement. Contractor warrants that it is not now aware of any facts which create a conflict of interest. If Contractor hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to County. Full written disclosure shall include, without limitation, identification of all persons implicated and complete description of all relevant circumstances.

19. **UNLAWFUL SOLICITATION**: Contractor shall require all of its employees to acknowledge, in writing, understanding of and agreement to comply with the provisions of Article 9 of Chapter 4 `of Division 3 (commencing with Section 6150) of California Business and Professions Code (i.e., State Bar Act provisions regarding unlawful solicitation as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to insure that there is no violation of such provisions by its employees. Contractor shall utilize the attorney referral service of all those bar associations within the County of Los Angeles that have such a service.

20. **INDEPENDENT STATUS OF CONTRACTOR:**

A. This Agreement is by and between County and Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

B. Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement all compensation and benefits. County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor.

C. Contractor understands and agrees that all persons performing services pursuant to this Agreement are, for purposes of workers' compensation liability, the sole employees of

Contractor and not employees of County. Contractor shall be solely liable and responsible for furnishing any and all workers' compensation benefits to any person as a result of any injuries arising from or connected with any services performed by or on behalf of Contractor pursuant to this Agreement.

21. **DELEGATION AND ASSIGNMENT**: Contractor shall not delegate its duties or assign its rights under this Agreement, or both, either in whole or in part, without the prior written consent of County, and any prohibited delegation or assignment shall be null and void. Any payments by County to any delegatee or assignee on any claim under this Agreement, in consequence of any such consent, shall be subject to set off, recoupment, or other reduction for any claim which Contractor may have against County.

22. **GOVERNING LAW, JURISDICTION AND VENUE**: This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles, California. Further, this Agreement shall be governed by, and construed in accordance with, all laws, regulations, and contractual obligations of County under its agreement with the State.

23. **COMPLIANCE WITH APPLICABLE LAW**:

A. Contractor shall comply with all Federal, including, but not limited to, Title XIX of the Social Security Act, State, and local laws, ordinances, rules, regulations, manuals, guidelines, Americans with Disabilities Act (ADA) standards, and directives applicable to its performance hereunder. Further, all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference.

B. Contractor shall indemnify and hold harmless County from and against any and all liability, damages, costs or expenses, including, but not limited, defense costs and attorneys' fees, arising from or related to any violation on the part of Contractor, its officers, employees, or agents, of any such Federal, State or local laws, ordinances, rules, regulations, manuals, guidelines, ADA standards, or directives.

24. **LICENSES, PERMITS, REGISTRATIONS, ACCREDITATIONS, AND CERTIFICATES**:

A. Contractor shall obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations, accreditations, and certificates (including, but not limited to, certification as a Short-Doyle/Medi-Cal provider if Title XIX Short-Doyle/Medi-Cal services are provided hereunder), as required by all Federal, State, and local laws, ordinances, rules, regulations, manuals, guidelines, and directives, which are applicable to Contractor's facility(ies) and services under this Agreement. Contractor shall further ensure that all of its officers,

employees, and agents, who perform services hereunder, shall obtain and maintain in effect during the term of this Agreement all licenses, permits, registrations, accreditations, and certificates which are applicable to their performance hereunder. A copy of each such license, permit, registration, accreditation, and certificate (including, but not limited to, certification as a Short-Doyle/Medi-Cal provider if Title XIX Short-Doyle/Medi-Cal services are provided hereunder) as required by all applicable Federal, State, and local laws, ordinances, rules, regulations, manuals, guidelines and directives shall be provided, in duplicate, to DMH's Contracts Development and Administration Division.

B. If Contractor is a participant in the Short-Doyle/Medi-Cal program, Contractor shall keep fully informed of all current Short-Doyle/Medi-Cal Policy Letters, including, but not limited to, procedures for maintaining Medi-Cal certification of all its facilities.

25. **TERMINATION FOR DEFAULT:**

A. County may, by written notice of default to Contractor, terminate this Agreement immediately in any one of the following circumstances:

(1) If, as determined in the sole judgment of County, Contractor fails to perform any services within the times specified in this Agreement or any extension thereof as County may authorize in writing; or

(2) If, as determined in the sole judgment of County, Contractor fails to perform and/or comply with any of the other provisions of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances, does not cure such failure within a period of five days (or such longer period as County may authorize in writing) after receipt of notice from County specifying such failure.

B. In the event that County terminates this Agreement as provided in Subparagraph A, County may procure, upon such terms and in such manner as County may deem appropriate, services similar to those so terminated, and Contractor shall be liable to County for any reasonable excess costs incurred by County, as determined by County, for such similar services.

C. The rights and remedies of County provided in this Paragraph 25 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

26. **TERMINATION FOR IMPROPER CONSIDERATION:** County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or

the making of any determinations with respect to the Contractor's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by the Contractor.

Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

27. **SEVERABILITY**: If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

28. **CAPTIONS AND PARAGRAPH HEADINGS**: Captions and paragraph headings used in this Agreement are for convenience only and are not a part of this Agreement and shall not be used in construing this Agreement.

29. **WAIVER**: No waiver by County of any breach of any provision of this Agreement shall constitute a waiver of any other breach of such provision. Failure of County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this Paragraph 29 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

30. **EMPLOYMENT ELIGIBILITY VERIFICATION**: Contractor warrants that it fully complies with all Federal statutes and regulations regarding employment of aliens and others and that all its employees performing services hereunder meet the citizenship or alien status requirements set forth in Federal statutes and regulations. Contractor shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for the period prescribed by law. Contractor shall indemnify, defend, and hold harmless County, its officers and employees from and against any employer sanctions and any other liability which may be assessed against Contractor or County in connection with any alleged violation of any Federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Agreement.

31. **AUTHORIZATION WARRANTY**: Contractor represents and warrants that the person executing this Agreement for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Agreement and that all requirements of Contractor have been fulfilled to provide such actual authority.

32. **RESTRICTIONS ON LOBBYING**: If any Federal funds are to be used to pay for any of Contractor's services under this Agreement, Contractor shall fully comply with all certification and disclosure requirements prescribed by Section 319 of Public Law 101-121 (31 United States Code Section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds under this Agreement also fully complies with all such certification and disclosure requirements.

33. **CERTIFICATION OF DRUG-FREE WORK PLACE**: Contractor certifies and agrees that Contractor and its employees shall comply with DMH's policy of maintaining a drug-free work place. Contractor and its employees shall not manufacture, distribute, dispense, possess, or use any controlled substances as defined in 21 United States Code Section 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any of Contractor's facilities or work sites or County's facilities or work sites. If Contractor or any of its employees is convicted of or pleads nolo contendere to any criminal drug statute violation occurring at any such facility or work site, then Contractor, within five days thereafter, shall notify Director in writing.

34. **COUNTY LOBBYISTS**: Contractor and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Contractor, shall fully comply with County's Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County lobbyist or County lobbying firm retained by Contractor to fully comply with County's Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

35. **CHILD SUPPORT COMPLIANCE PROGRAM**:

A. Contractor's Warranty of Adherence to County's Child Support Compliance Program

Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Agreement to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

B. Termination for Breach of Warranty to Maintain Compliance with County's Child Support Compliance Program

Failure of Contractor to maintain compliance with the requirements set forth pursuant to Subparagraph A (Contractor's Warranty of Adherence to County's Child Support Compliance Program) shall constitute a default by Contractor under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure to cure such default within ninety days of notice by the Los Angeles County District Attorney shall be grounds upon which the County Board of Supervisors may terminate this Agreement pursuant to Agreement Paragraph 25 (TERMINATION FOR DEFAULT).

C. Contractor's Acknowledgment of County's Commitment to Child Support Enforcement

Contractor acknowledges that County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. Contractor understands that it is County's policy to encourage all County Contractors to voluntarily post County's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at Contractor's place of business. County's District Attorney will supply Contractor with the poster to be used.

36. **NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT**: Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

37. **USE OF RECYCLED-CONTENT PAPER PRODUCTS**: Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on the Project.

38. **CONTRACTOR RESPONSIBILITY AND DEBARMENT**: The following requirements set forth in the Ordinance are effective for this contract, except to the extent applicable State and/or Federal laws are inconsistent with the terms of the Ordinance.

A. A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible contractors.

B. The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the contract, debar the Contractor from bidding on County contracts for a specified period of time not to exceed 3 years, and terminate any or all existing contracts the Contractor may have with the County.

C. Contractor shall ensure the eligibility of all staff and sub-contractors to provided services under federal health care programs.

D. Contractor shall query the Federal government List of Excluded Individuals and Entities, (LEIE) at: http://oig.hhs.gov to insure that each Psychiatrist referred to the County of Los Angeles has not been debarred, excluded or otherwise been found by a federal or state agency to be ineligible to provide services under a federally funded health care program.

E. Contractor shall inform the County of Los Angeles of any exclusionary action taken by an agency of the federal or state governments against Contractor or one or more of their staff members, barring them from providing services under a federally funded health care program.

F. All Psychiatrist referred to the County of Los Angeles by the Contractor who become debarred from participating in Federally funded health care programs shall be recalled by Contractor from their assignment with the County of Los Angeles and payment to contractor for psychiatrist services will not be made for services provided while psychiatrist was debarred from providing services under a federally funded health program.

G. The County may debar a contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated any term of a contract with the County, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

H. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

I. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the contractor should be debarred, and, if so, the appropriate length of time of the debarment. If the Contractor fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, the Contractor may be deemed to have waived all rights of appeal.

J. A record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.

K. These terms shall also apply to subcontractors/subconsultants of County Contractors.

39. **CONTRACTOR'S EXCLUSION FROM PARTICIPATION IN A FEDERALLY FUNDED PROGRAM:** Contractor hereby warrants that neither it nor any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part, and that Contractor will notify Director within thirty (30) calendar days in writing of: (1) any event that would require Contractor or a staff member's mandatory exclusion from participation in a Federally funded health care program; and (2) any exclusionary action taken by any agency of the Federal government against Contractor or one or more staff members barring it or the staff members from participation in a Federally funded health care program, whether such bar is direct or indirect, or whether such bar is in whole or in part.

Contractor shall indemnify and hold County harmless against any and all loss or damage County may suffer arising from any Federal exclusion of Contractor or its staff members from such participation in a Federally funded health care program.

Failure by Contractor to meet the requirements of this Paragraph shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

40. **COUNTY'S QUALITY ASSURANCE PLAN**: The County or its agent will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all contract terms and performance standards. Contractor deficiencies which County determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this Agreement or impose other penalties as specified in this Agreement.

41. **REPORTS**: Contractor shall make reports as required by Director regarding Contractor's activities and operations as they relate to Contractor's performance of this Agreement. In no event may County require such reports unless it has provided Contractor with at least thirty days' prior written notification. County shall provide Contractor with a written explanation of the procedures for reporting the required information.

42. **CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF OR FORMER COUNTY EMPLOYEES ON A REEMPLOYMENT LIST:** Should Contractor require additional or

replacement personnel after the effective date of this Agreement to perform the services set forth herein, Contractor shall give first consideration for such employment openings to qualified permanent County employees who are targeted for layoff or qualified former County employees who are on a reemployment list during the term of this Agreement.

43. **CONSIDERATION FOR HIRING GREATER AVENUES FOR INDEPENDENCE (GAIN) PARTICIPANTS**: Should Contractor require additional or replacement personnel after the effective date of this Agreement, Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program who meet Contractor's minimum qualifications for the open position. The County will refer GAIN participants by job category to the contractor.

44. **THIRD PARTY BENEFICIARIES**: Notwithstanding any other provision of this Agreement, the parties do not in any way intend that any person or entity shall acquire any rights as a third party beneficiary of this Agreement.

45. **TERMINATION FOR INSOLVENCY**:

A. County may terminate this Agreement immediately in the event of the occurrence of any of the following:

(1) Insolvency of Contractor. Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not Contractor is insolvent within the meaning of the Federal Bankruptcy Code.

(2) The filing of a voluntary or involuntary petition regarding Contractor under the Federal Bankruptcy Code.

(3) The appointment of a Receiver or Trustee for Contractor.

(4) The execution by Contractor of a general assignment for the benefit of creditors.

B. The rights and remedies of County provided in this Paragraph 45 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

46. **ALTERATION OF TERMS**: No addition to, or alteration of, the terms of the body of this Agreement, or the Exhibit(s) hereto, whether by written or oral understanding of the parties, their officers, employees or agents, shall be valid and effective unless made in the form of a written amendment to this Agreement which is formally approved and executed by the parties in the same manner as this Agreement.

47. **ENTIRE AGREEMENT**: The body of this Agreement; and Exhibits A and B _____, attached hereto and incorporated herein by reference, shall constitute the complete and exclusive statement of

understanding between the parties which supersedes all previous agreements, written or oral, and all other communications between the parties relating to the subject matter of this Agreement. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, or schedule, or the contents or description of any service or other work, or otherwise, between the body of this Agreement and the exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the body of this Agreement and then to such other documents according to the following priority:

Exhibit(s) A _____.

Exhibit(s) B _____.

48. **CERTIFICATION OF DRUG-FREE WORK PLACE:** Contractor certifies and agrees that Contractor and its employees shall comply with DMH's policy of maintaining a drug-free work place. Contractor and its employees shall not manufacture, distribute, dispense, possess, or use any controlled substances as defined in 21 United States Code Section 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any of Contractor's facilities or work sites or County's facilities or work sites. If Contractor or any of its employees is convicted of or pleads nolo contendere to any criminal drug statute violation occurring at any such facility or work site, then Contractor, within five days thereafter, shall notify Director in writing.

49. **PERFORMANCE UNDER EMERGENCY CONDITIONS:**

A. FORCE MAJEUR: In the event that performance by either party is rendered impossible (permanent or temporarily) by governmental restrictions, regulation or controls or other causes beyond the reasonable control of such party, said event shall excuse performance by such party, or in the case of temporary impossibility, shall excuse performance only for a period commensurate with the period of impossibility. Notwithstanding the foregoing, County shall have the right to terminate this Agreement upon any event which renders performance impossible. In such case, County shall be responsible for payment of all expenses incurred to the point at which this Agreement is terminated.

B. CONTRACTOR'S PERFORMANCE DURING CIVIL UNREST OR DISASTER: Contractor and its subcontractor(s) recognize that health care facilities (e.g., residential health care facilities) maintained by County, and the participants that they serve, provide care that is essential to the residents of the community they serve, and that these services are of particular importance at the time of riot, insurrection, civil unrest, natural disaster, or similar event. Notwithstanding any other provision of the Agreement, full performance by Contractor and its subcontractor(s) during any riot, insurrection, civil unrest, natural disaster or similar event is not excused if such performance remains physically possible. Failure to comply with this requirement shall be

considered a material breach by Contractor for which Director may suspend of County may immediate terminate this Agreement.

C. EMERGENCY AND DISASTER PREPAREDNESS: Notwithstanding Contractor's and County's contractual objective to provide services to eligible persons, Contractor shall make program services available to any person impacted during the event of a State/nationally declared emergency, contingent upon the availability and commitment of Federal Emergency Management Agency (FEMA) or State Office of Emergency Services (OES) funds with which to reimburse Contractor for funds expended.

50. **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**: Contractor acknowledges the existence of the Health Insurance Accountability and Portability Act of 1996 and its implementing regulations with respect to the privacy of patient Protected Health Information and other related matters (HIPAA). As part of the necessary qualifications of persons performing services under this Agreement, and prior to the performance of any services, Contractor shall certify to County that the person has received appropriate training with respect to HIPAA and the obligations imposed upon providers of health care. As a courtesy to Contractor, DMH will, upon request, make available its HIPAA web-based training, at no cost to Contractor or the individual, and at no cost to County for the time spent on such.

51. **COMPLIANCE WITH JURY SERVICE PROGRAM:**

A Jury Service Program: This Agreement is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

B Written Employee Jury Service Policy:

1.1 Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

1.2 For purposes of this Section, "Contractor" means a person, partnership, corporation or other entity which has an Agreement with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of $50,000 or more in any 12-month period under one or more County Agreements or

subcontracts. "Employee" means any California resident who is a full-time employee of Contractor. "Full-time" means 40 hours or more worked per week or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for the County under the Agreement, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract Agreement and a copy of the Jury Service Program shall be attached to the Agreement.

1.3 If Contractor is not required to comply with the Jury Service Program when the Agreement commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Agreement and at its sole discretion, that Contractor demonstrate to the County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.

1.4 Contractor's violation of this section of the Agreement may constitute a material breach of the Agreement. In the event of such material breach, County may, in its sole discretion, terminate the Agreement and/or bar Contractor from the award of future County Agreements for a period of time consistent with the seriousness of the breach.

52. **WARRANTY**: Contractor represents and warrants that its signatory to this Agreement is fully authorized to obligate the Contractor and that all acts necessary to the execution of this Agreement have performed.

53. **NOTICES**: All notices or demands required or permitted to be given under this Agreement shall be in writing and shall be delivered with signed receipt or mailed by first class, registered or certified mail, postage pre-paid, addressed to the parties at the following addresses and to the attention of the persons named. Director shall have the authority to execute all notices or demands which are required or permitted by County under this Agreement. Addresses and persons to be notified may be changed

by either party by giving ten days prior written notice thereof to the other party.

To Contractor: _____

_____

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_____

Attention: _____

_____

To County: Department of Mental Health

Contracts Development and Administration Division

550 South Vermont Ave., 5th Floor

Los Angeles, CA 90020

Attention: Chief

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IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be subscribed by County's Director of Mental Health, and Contractor has caused this Agreement to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

COUNTY OF LOS ANGELES

By_____
MARVIN J. SOUTHARD, D.S.W.
Director of Mental Health

_____
CONTRACTOR

By _____

Name _____

Title _____
(AFFIX CORPORATE SEAL HERE

APPROVED AS TO FORM
BY THE OFFICE OF THE COUNTY COUNSEL

LLOYD W. PELLMAN
County Counsel

APPROVED AS TO CONTRACT
ADMINISTRATION:

DEPARTMENT OF MENTAL HEALTH

By _____
Chief, Contracts Development and
Administration Division

PEP:Locum Tenens Format.doc (05/07/2003 4:55 PM)

COUNTY OF LOS ANGELES - DEPARTMENT OF MENTAL HEALTH
Contracts Development and Administration Division

CONTRACTING WITH MINORITY/WOMEN-OWNED FIRMS
PERCENTAGE OF OWNERSHIP IN FIRM

	Contractor/Firm	Firm Status	Black/African American		Hispanic/Latin American		Asian American		White	
			% Men	% Women	% Men	% Women	% Men	% Women	% Men	% Women
1	CompHealth	P	0	0	0	0	0	0	0	0
2	Daniel & Yeager	P	0	0	0	0	0	0	0	0
3	J&C Nationwide	P	0	0	0	0	0	0	0	100
4	Staff Care, Inc.	P	0	0	0	0	0	0	100	0

Firm Status: NP = Non Profit
P = For Profit
G = Governmental

NOTE: Non-Profit firms and governmental institutions are not owned; hence, the data on percentage of ownership in firm by ethnicity and gender is not required per instructions from the Office of Affirmative Action Compliance.