

**PROVIDER CONTRACT
TITLE 36 MENTAL HEALTH SERVICES
BETWEEN
COCHISE COUNTY BOARD OF SUPERVISORS
AND
SOUTHEASTERN ARIZONA BEHAVIORAL HEALTH**

This agreement is between SOUTHEASTERN ARIZONA BEHAVIORAL HEALTH – PSYCHIATRIC HEALTH FACILITY (SEABHS-PHF), an Arizona non-profit corporation, hereinafter call "Provider", and the COUNTY OF COCHISE, a political subdivision of the State of Arizona, hereinafter called "County".

RECITALS

- A. Pursuant to A.R.S. §36-545.06, the County is obligated, in certain circumstances, to make available and pay for mental health screenings and evaluations for commitment of proposed patients who reside in Cochise County and those who were found in Cochise County prior to screening or emergency admission to a psychiatric facility;
- B. County and Provider desire to act jointly and cooperatively in developing and implementing a unified, cohesive and well integrated system of mental health services in Cochise County.
- C. County has the authority to enter into this agreement with the Provider for the provision of mental health services pursuant to A.R.S. § 11-952, 11-291, 11-251 and 36-545.07.
- D. Provider operates outpatient clinics in Benson, Sierra Vista and Willcox, staffed by professionals qualified to perform pre-petition screenings of individuals to determine whether a Title 36 proceeding is appropriate.
- E. Provider operates a psychiatric health facility in Benson, which is a Level 1 facility.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and undertakings herein, Provider and County agree as follows:

ARTICLE 1
TERM

- 1. This Agreement shall become effective August 1, 2011 and terminate on June 30, 2013, unless further extended pursuant to the provisions of Article 7. All parties hereto acknowledge that this Agreement is subject to cancellation by the County, pursuant to the provisions of Section 38-511 of the Arizona Revised Statutes.

ARTICLE 2
SCOPE OF SERVICES

- 2.1 Provider will provide Title 36 pre-screening and evaluation services for, and on behalf of the County pursuant to, in accordance with and governed by Chapter 5, Title 36 of the Arizona Revised Statutes and any other current and future applicable statutes, rules and regulations. In providing such services, Provider will function as the Prescreening agency for the County and, when appropriate, as the Title 36 evaluation agency for matters initiated by the County.

To facilitate pre-screening, all local law enforcement will be directed to transport any potential patient to the Psychiatric Health Facility in Benson. 36-524

For those patients who also receive either Medicare and/or private pay insurance, whenever possible, arrangements shall be made by Provider staff for evaluation at a Tucson Psychiatric Facility that accepts Medicare and/or patient's private pay insurance.

It is understood that neither the County nor the Provider assumes any duty or obligation to provide or pay for medical or mental health treatment, but only for screening and evaluation services and any associated court testimony. For example, and not by way of limitation, neither party is responsible for the payment of hospital costs (i.e. non-evaluation costs, such as physical medical treatment) incurred by a patient before, during or after screening and evaluation services have been provided for the patient. Further, subject to applicable law, the County is not responsible for the cost of any short or long-term mental health treatment provided by the Provider.

- 2.2 All mental health services provided under this Agreement shall be rendered in accordance with applicable law and community professional and ethical standards.
- 2.3 County shall retain financial responsibility for the costs of, and mental health services from the Provider shall not include, independent evaluators, court-appointed defense attorneys and actual court proceeding expenses for commitment actions brought under Title 36, Chapter 5, Article 4 and 5 of the Arizona Revised Statutes (A.R.S. §36-520 et seq and 36-533 et seq., respectively).
- 2.4 Licenses: Provider certifies that it has procured and shall maintain all permits and licenses required in order to conduct business lawfully; and that it shall remain informed of and in compliance with all federal, state and local laws, ordinances and regulations that effect in any manner Provider's fulfillment of the contract.

ARTICLE 3
REIMBURSEMENT

- 3.1 The County agrees that it will reimburse the Provider for the costs associated with providing services to the County as follows:

Pre-screen services, to include determining if a Title 36 petition is appropriate, gathering witness statements and providing all required County documents, shall be paid at the rate of **two hundred fifty dollars (\$250.00 USD)** per patient.

In-patient services for evaluation, treatment, report writing and testimony, at the rate of Seven Hundred Fifty Dollars (**\$750.00 USD**) per day; **plus one hundred and fifty dollars (\$150.00 USD) per psychiatric evaluation**; said inpatient services shall be paid from the date of the filing of a Petition for Evaluation, up to and including the day before court ordered treatment, change to voluntary status or release from evaluation.

Invoices received by the County more than six (6) months following the date of service will not be paid pursuant to A.R.S. § 11-622.

3.2 Reimbursement for services shall be invoiced and payable on a monthly basis to:

John Motowski
Chief Financial Officer
611 W. Union Street
Benson, AZ 85602

3.3 No later than 150 days after the end of the fiscal year, June 30, 2012, Provider shall complete a certified independent financial audit.

3.4 The Provider agrees that the maximum amount payable under this contract for services and fixed costs **will not exceed One Half Million Dollars (\$500,000.00 USD)** per contract year.

ARTICLE 4 INDEMNIFICATION AND INSURANCE

4.1 Provider shall indemnify, defend and hold harmless the County and all of its officer, employees and agents from any and all suits, claims, demands, fines or any action of any kind and nature which might arise as a result of Provider's negligence in performance of the Agreement, except those arising out of the negligence of the County, in which case the County shall indemnify, defend and hold harmless the Provider and all of its officers, employees and agents from any and all suits, claims, demands, fines or any action of any kind which results from negligence. It is the intent of this section to require Provider to indemnify Cochise County to the extent permitted under Arizona Law.

The amount and type of insurance coverage requirements set for herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

4.2 Provider shall provide and maintain, and cause its Subcontractors to provide and maintain, appropriate liability insurance. In no event shall the total coverage be less than the minimum insurance coverage specified below:

a) Comprehensive general liability insurance with a minimum combined single limit of One Million Dollars (\$1,000,000.00 USD), each occurrence. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for Provider and employee acts), blanket Provider contractor's protective, sudden and accidental pollution, products and completed operations.

b) Comprehensive automobile liability insurance with a combined single limit for bodily injury and property damage of not less than One Million Dollars (\$1,000,000.00 USD), each occurrence, with respect to the Provider's vehicles (whether owned, hired, non-owned), assigned to or utilized in the performance of this Contract.

c) Professional liability insurance with a minimum combined single limit of One Million Dollars (\$1,000,000.00), each occurrence.

d) Workman's Compensation Insurance as statutorily required by any applicable Federal and/or State statutes.

- 4.3 The Contractor or subcontractors' breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by Cochise County. Cochise County retains the legal right to randomly inspect the papers and records of the Provider and its subcontractors who work on the Agreement to ensure that the Provider and its subcontractors who work on the Agreement to ensure that the Provider and its subcontractors are complying with the above-mentioned warranty.

The Provider and its subcontractors warrant to keep the papers and records open for inspection during normal business hours by Cochise County and to cooperate with Cochise County's inspections.

- 4.4 Provider shall provide a Certificate of Insurance to the County evidencing that Provider is in compliance with the insurance requirement and shall agree that no policy shall expire, be cancelled or changed without thirty (30) days written prior notification of the County. Any policy endorsements that restrict or limit coverage shall be clearly noted on the Certificate of Insurance. Prior to commencing services, the Certificate of Insurance shall identify this contract and shall be sent directly to Cochise County, at the address listed in Section 5.1(b).

ARTICLE 5 NOTICES

5. Any written notices required by the Agreement shall be addressed as follows:
- a. Notices to Provider shall be addressed and mailed as follows:

Dan Barden, Chief Clinical Officer
611 W. Union Street
Benson, Arizona 85602

Board of Supervisors
1415 Melody Lane, Bldg. G
Bisbee, Arizona 85603

And

Cochise County Attorney's Office
ATTN: Civil Division
P. O. Drawer CA
Bisbee, Arizona 85603

ARTICLE 6
RECORD KEEPING AND AUDITS

- 6.1 Provider shall provide to County monthly utilization reports indicating individuals served and number and type of services provided by the twentieth (20th) day of each month.
- 6.2 Provider shall provide to County annual Certified Independent Audits of Provider and subcontracted agencies for cost based reconciliation purposes within one hundred fifty (150) days of Provider fiscal year end (June 30).
- 6.3 Provider agrees to maintain all records associated with this Agreement for a period of at least five (5) years. County and Provider agree to maintain and furnish each other such records and documents pertaining to the services provided pursuant to this Agreement, both medical and non medical, as may be required by applicable Federal and State laws, rules and regulations. County and Department agree to facilitate the information and record exchanges necessary to Quality Management, Utilization Management or other programs required for their mutual benefit.
- 6.4 Provider shall allow County or county's designee reasonable access during regular business hours to specified health and medical records and any requested financial books, records or documents.
- 6.5 Provider will meet with County staff each month to review contract services to date; Provider will represent County as the Title 36 Provider at Community Mental Health Coalition meetings wherein Title 36 services are an issue and will provide a summary at the monthly County meetings.

ARTICLE 7
EXTENSIONS, AMENDMENTS AND TERMINATION

- 7.1 This document contains the entire Agreement of the parties and may not be changed orally. Any change, modification or extension of the Agreement must be in the form of a written amendment to this Agreement, signed by both parties hereto.
- 7.2 The parties may, by an amendment signed by both parties, extend this Agreement for additional two (2) year periods. To be effective, an amendment extending the term of

this Agreement must be executed by both parties at least sixty (60) days prior to the expiration of the current term. If not, this Agreement shall terminate on June 30 of the then current term.

- 7.3 Either party may terminate this Contract at any time, with ninety (90) days notice in writing, to the other party. Such notice shall be given by personal delivery or by registered or certified mail to the other party's official mailing address.
- 7.4 This contract is not assignable, the County reserves the right to terminate this Contract, without notice, in the event that the Agency sells, transfers or conveys ownership of the Psychiatric Health Facility (PHF) and/or if the Agency fails to perform their duties in accordance with this Contract.

ARTICLE 8 NON-DISCRIMINATION

8. Both County and Provider shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1975; and the Federal Executive Order 112456, State Executive Order No.7505; and A.R.S. § 41-1461 et seq., which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliations, shall have equal access to employment opportunities. Both County and Provider shall comply with Section 503 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap. Both county and Provider shall comply with title VI of the Civil Rights Act of 1964, as amended, which prohibits the denial of benefits or participation in services pursuant to this Agreement on the basis of race, color or national origin. Both County and Provider shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in delivering services pursuant tot his Agreement and with the provisions of the Americans with Disabilities Act of 1990, as amended.

ARTICLE 9 RELATIONSHIP OF PARTIES

9. Provider is an independent contractor of the County. Provider represents that he has or will secure at his own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the County. All personnel engaged in work under this Agreement shall be fully qualified and shall be authorized or permitted under state or local law to perform such services. It is further agreed by Provider that Provider shall obey all state and federal statutes, rules and regulations which are applicable to provisions of the services called for herein. Neither Provider nor any employee of the Provider shall be deemed an officer, employee or agent of the County.

ARTICLE 10
MISCELLANEOUS

- 10.1 The parties agree that all of the conditions set forth herein are material to the Agreement and a breach of any condition is a breach of the Agreement.
- 10.2 Provider hereby certifies that it does not have scrutinized business operations as defined in A.R.S. § 35-391(15), in Sudan or Iran, as defined in A.R.S. § 35-393(12).
- 10.3 Each Article of this Agreement stands alone. Any Article of this Agreement found to be prohibited by law shall be ineffective only to the extent of such prohibition, without invalidating the remainder of the Agreement.
- 10.4 The failure of either party to insist in any one or more instances upon the full and complete performance of any of the terms and provisions of this Agreement to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing at any time shall not be construed as an accord and satisfaction.
- 10.5 Captions and headings are for index purposes only and shall not be used in construing this Agreement.
- 10.6 This Agreement shall be interpreted in accordance with Arizona Law.
- 10.7 If any provision of this Agreement shall conflict with any provisions of the exhibits hereto, the provisions of the exhibits or modifications shall prevail.
- 10.8 The Provider and the County have read this Agreement and agree to be bound by all of its terms; and further agree that it constitutes the entire Agreement between the two parties and may only be modified by a written mutual Agreement signed by both parties.
- 10.9 the Provider shall not assign any of its rights or obligations under this Agreement without the prior written consent of the County. Any attempt to assign shall be void.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Agreement, inclusive of the attached Fee Addendum, as indicated below:

Southeastern Arizona Behavioral Health Services

SIGNATURE _____


Jim Rubio, Chief Executive Officer - SEABHS

DATE 6-24-2011

Cochise County Health Department

SIGNATURE _____ **DATE** _____
Mary Gomez, Director – Cochise County Health Department

Cochise County Board of Supervisors

SIGNATURE _____ **DATE** _____
Patrick Call, Chairman – Cochise County Board of Supervisors