

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Rudy N. Garcia
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *February 7, 2019*

TO: *Board of County Commissioners*

FROM: *Bill Taylor, Procurement Manager, CPO*

VIA: *Katherine Miller, County Manager*
Erika D. Thomas, Interim Finance Director
Rachel O'Connor, Community Services Director

ITEM AND ISSUE: BCC Meeting February 26, 2019

Approval of Contract No. 2019-0110-CSD/CW between Santa Fe County and Santa Fe Recovery Center in the Amount of \$321,000.00 excluding NM GRT for Residential and Outpatient Treatment Services for Adults with Substance Use Disorders (SUD), Authorizing the County Manager to Sign and Execute the Purchase Order. (Bill Taylor, Purchasing Division; Rachel O'Connor, Community Services Director)

Summary:

The Purchasing Division issued Request for Proposals (RFP) No. 2019-0110-CSD/CW on November 12, 2018 for residential and outpatient treatment services for adults with substance use disorders (SUD). Three proposals were received on December 14, 2018. from the following Offerors:

Santa Fe Recovery Center, Santa Fe, NM
Hoy Recovery Programs, Espanola, NM
Epidaurus DBA Amity Foundation, Tucson, AZ

The Evaluation Committee selected Santa Fe Recovery Center as the most responsive and qualified Offeror to provide professional treatment services to Santa Fe County adults with substance abuse disorders (SUD).

BACKGROUND:

The Community Services Department identified the need to increase comprehensive, wrap-around

residential and outpatient services for adult individuals that struggle with substance use disorders (SUD). Individuals receiving residential treatment required services at a minimum for twenty-eight days and needed a client care treatment continuum on progression into the community. Outpatient clients required treatment and case management services that focused on the social determinants identified at initial screenings and related to the individual's substance use disorder.

ACTION REQUESTED:

Approval of Agreement No. 2019-0110-CSD/CW with Santa Fe Recovery Center in the amount of \$321,000.00 exclusive of NM GRT for Residential and Outpatient Treatment Services for Adults with Substance Use Disorders (SUD) and authorizing the County Manager to sign and execute the purchase order.

**SANTA FE COUNTY
PROFESSIONAL SERVICES AGREEMENT
with SANTA FE RECOVERY CENTER for Residential and Outpatient Treatment
Services for Adults with Substance Use Disorders (SUD)**

THIS AGREEMENT is made and entered into on this ___ day of _____, 2019, by and between **SANTA FE COUNTY** (hereinafter referred to as the "County"), a New Mexico political subdivision, and **SANTA FE RECOVERY CENTER** (hereinafter referred to as the "Contractor").

WHEREAS, Santa Fe County Community Services Department requires a professional health provider for comprehensive, wrap-around residential and outpatient treatment services for adults challenged with substance use disorders (SUD);

WHEREAS, pursuant to NMSA 1978, Section 13-1-112 and 13-1-117, competitive sealed proposals were solicited via a formal request for proposals, RFP No.2019-0110-CSD/CW, for the procurement of services for professional treatment services to residential and outpatient adult clients challenged with substance use disorder (SUD);

WHEREAS, the Contractor is licensed to do business in the State of New Mexico and as required by the RFP, can provide professional treatment services to residential and outpatient adult clients challenged with substance use disorder (SUD) for the County;

WHEREAS, the County requires the services of the Contractor, and the Contractor is willing to provide these comprehensive, wrap-around professional treatment services for residential and outpatient adult clients challenged with substance use disorder (SUD) and both parties wish to enter into this Agreement.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. SCOPE OF WORK

Santa Fe County identified the need to provide comprehensive, wrap-around residential and outpatient services for adult individuals that are challenged with Substance Use Disorders (SUD). Individuals are expected to receive residential treatment up to twenty-eight days or four weeks. Outpatient case management services are to focus on the social determinants identified at initial screening conjunction with services related to the individual's substance use disorder.

A. The Contractor shall:

1. Provide a clinical assessment and develop a treatment plan for each adult County client that may include education, treatment, navigation services, and aftercare
2. Provide an overall treatment plan for an eligible person for residential treatment with substance use disorder (SUD) needs that may include: assessment, treatment

provision, medication management, evaluation, and treatment discharge plan for the individual's treatment plan.

3. Tailor the case management services to an individual's priorities and cultural relevance, including the assessment of the social determinants (e.g. nutrition, education, transportation, employment), navigation services, and a team approach for service delivery, documenting cross-agency collaboration.
 4. Refer and follow each client's use of supportive services in the client's aftercare plan that are external to the Contractor's services, including a brief description of supportive services to which the client is referred and delineating the intended outcome(s) for the client.
 5. Participate in the Accountable Health Community (AHC) activities, including attendance at director level stakeholder meetings and agency membership in the ACH Advisory Committee.
 6. Participate in data sharing, using the County-approved IT system, related to case management plans (with client consent) with appropriate community and social care organizations, and negotiate agreements with community partners to streamline the continuum of care services for each client.
 7. Use the Accountable Health Community's screening tool and categories to determine demographics and social needs of the residential and outpatient clients.
- B. The County may from time to time request changes in the scope of work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in written amendments to this agreement.

2. DELIVERABLES

A. In consideration of its obligations under this Agreement, the Contractor shall provide the following:

1. A monthly report, as defined in Exhibit A, due by the 15th of the following month detailing such information as: a) screening results for social determinants of health; b) benchmarks achieved in treatment, navigation, and aftercare plans: number of individuals served in different categories of services; participation activities in the Accountable Health Community; use of the County data sharing IT system; demographics and social needs of the residential and outpatient clients served; and, the referrals and successful engagement of clients in the external supportive services.
2. Annual report including a year-end summary and supporting requested data.
3. Proof that medical records are kept secure and confidential and adhere to all HIPAA policies and requirements, as well as the requirements of 42 CFR Part 2 covering confidentiality and consent for substance abuse assessment and treatment records.
4. Engagement in Accountable Health Care related activities, such as quarterly navigation trainings, advisory committee participation, and Advisory Council working groups.

3. COMPENSATION, INVOICING, AND SET-OFF

A. In consideration of its obligations under this Agreement the Contractor shall be compensated as follows:

1. For services provided in conformity with this Agreement, the Contractor will invoice the County quarterly for a sum not to exceed \$80,000.00, using the invoice form attached hereto as Exhibit B. Invoices shall include the monthly detailed status reports for the quarter.
2. The total amount payable to the Contractor over the initial term of this Agreement shall not exceed THREE HUNDRED TWENTY-ONE THOUSAND DOLLARS (\$321,000.00), inclusive of NM GRT.
 - i. Of the total compensation, a sum not to exceed \$321,000.00 shall be available to reimburse Contractor for services provided to clients.
3. The sum of \$321,000.00 for the initial term of this Agreement is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. The contractor will notify the County when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services.
4. The Contractor shall submit a written request for payment to the County when payment is due under this Agreement. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. The Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.
5. In the event the Contractor breaches this Agreement, the County may, without penalty, withhold any payments due the Contractor for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.
6. Payment under this Agreement shall not foreclose the right of the County to

recover excessive or illegal payment.

4. EFFECTIVE DATE AND TERM

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate one (1) years later, unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations). The County has the option to extend the contract at the same price, terms and conditions for three (3) additional one (1) year terms, not to exceed four (4) years including any extensions. The County may exercise this option by submitting a written notice to Contractor that the Agreement will be extended an additional year. The notice must be submitted to Contractor at least sixty (60) days prior to expiration of the initial Agreement or any extension thereof.

5. ADDITIONAL SERVICES

- A. The parties agree that all tasks set forth in Paragraph 1, SCOPE OF WORK of this Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 2, COMPENSATION, INVOICING, AND SET-OFF, of this Agreement, and for no other cost, amount, fee, or expense.
- B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in written amendments to this Agreement.

6. TERMINATION

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.
- B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Contractor's receipt of the notice. The County shall pay the Contractor for work performed

before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

7. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

8. INDEPENDENT CONTRACTOR

The Contractor and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.

9. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

10. SUBCONTRACTING

The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect. Upon execution of this Agreement, the County agrees that Contractor will identify a designee or substitute contractor to provide bank custodial services in Contractor's absence.

11. PERSONNEL

- A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.
- B. The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

12. RELEASE

Upon its receipt of all payments due under this Agreement, the Contractor releases the County, its elected officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

13. CONFIDENTIALITY

Any confidential information provided to by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

14. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL

The County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement.

15. CONFLICT OF INTEREST

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

16. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 1, "SCOPE OF WORK", of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

17. ENTIRE AGREEMENT; INTEGRATION

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior or contemporaneous agreement, covenant or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

18. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

19. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

- A. The Contractor agrees to abide by all federal, state, and local laws, ordinances, and rules and regulations pertaining to equal employment opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. Contractor agrees to abide by Santa Fe County Ordinance 2014-1 Establishing a Living Wage within Santa Fe County. Contractor acknowledges and agrees that failure to comply with this Section of the agreement/contract shall constitute a material breach of the Agreement.
- C. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

20. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

- A. In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations.
- B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be the state district court of New Mexico, located in Santa Fe County.

21. RECORDS AND INSPECTIONS

- A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and

records during the term of this Agreement and for a period of six (6) years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles (GAAP).

- B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, the Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

22. INDEMNIFICATION

The Contractor must agree to wholly indemnify the County for any and all loss, damages, costs, expenses (including, without limitation, legal fees and expenses) and liability (collectively hereinafter "Loss") resulting from errors, omissions, fraud, embezzlement, theft, negligence, (collectively hereinafter "Actions or Omissions") or neglect by the Contractor, its employees, officers, agents and directors in performing their duties under this Agreement. The Contractor must also acknowledge and agree that any loss shall, unless such loss can be demonstrated by the Contractor to have been due to a cause or causes beyond the reasonable control of the Contractor (such as acts of god, acts of the public enemy, insurrections, riots, fires, explosions, orders or acts of civil or military authority and other cataclysmic events, to the extent all reasonable and diligent precautions by the Contractor could not have been prevented the damage or loss resulting from such event) be conclusively presumed to be the result of Actions or Omissions on part of the Contractor. Limited exceptions to this indemnification requirement may be permitted in any agreement entered by the County with the Contractor as to information supplied by the County Treasurer's Office pursuant to any safekeeping or other collateral agreement or such other limited exception as may be required in order to enable the provision of a particular service by the Contractor. Any such limited exception must be included in this Agreement and be acceptable to and specifically approved by the County.

23. SEVERABILITY

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

24. NOTICES

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Santa Fe County
Office of the County Manager
102 Grant Avenue
Santa Fe, New Mexico 87501

To the Contractor: Santa Fe Recovery Center
5312 Jaguar Drive
Santa Fe, NM 87507

25. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

- A. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.
- B. This Agreement and Contractor's obligations hereunder do not conflict with Contractor's corporate agreement or any statement filed with the Public Regulation Commission on Contractor's behalf.
- C. Contractor is legally registered and licensed to operate as a business in New Mexico to do the work anticipated by this Agreement and shall maintain such registration and any applicable licensure in good standing throughout the duration of the Agreement.

26. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

27. LIMITATION OF LIABILITY

The County's liability to the Contractor for any breach of this Agreement by the County shall be limited to direct damages and shall not exceed the maximum amount of potential compensation specified in Section 2, "COMPENSATION AND INVOICING," of this Agreement. In no event shall the County be liable to the Contractor for special or consequential damages, even if the County was advised of the possibility of such damages prior to entering into this Agreement.

28. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

29. INSURANCE

- A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.
- C. Workers' Compensation. The Contractor shall comply with the provisions of the Workers' Compensation Act.
- D. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.

30. PERMITS, FEES, AND LICENSES

Contractor shall procure all applicable permits and licenses, pay all charges, fees, and royalties, and give all notices necessary and incidental to the due and lawful of its obligations hereunder.

31. NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

32. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

33. SURVIVAL

The provisions of following paragraphs shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the last signature by the parties.

SANTA FE COUNTY:

Anna T. Hamilton, Chair
Board of County Commissioners

Date

ATTESTATION

Geraldine Salazar

Date

Approved as to form:

R. Bruce Frederick
Santa Fe County Attorney

Date

Finance Department:

Erika D. Thomas, Interim Finance Director
Santa Fe County Finance

Date

CONTRACTOR:

Date

By: _____
(Print Name)

(Print Title)

DRAFT

EXHIBIT A

Monthly Reporting Form

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EXHIBIT B

Quarterly Invoice Form

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