

AMENDMENT III TO AGREEMENT

THIS AMENDMENT is made and entered into this 20th day of June, 2017, by and between the COUNTY OF FRESNO, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and BAART BEHAVIORAL HEALTH, INC., a California Corporation, whose remit to and mailing address is Dept 8087, P.O. Box 650002, Dallas, TX 75265-0002, hereinafter referred to as "CONTRACTOR".

WHEREAS, the parties entered into that certain Agreement, identified as COUNTY Agreement No. A-13-492, effective July 1st, 2013, as amended by Amendment I, identified as COUNTY Agreement No. 13-492-1 effective September 23, 2014, as amended by Amendment II, identified as COUNTY Agreement No. 13-492-2 effective July, 1, 2015, hereafter referred to collectively as the Agreement; and

WHEREAS the parties desire to amend the Agreement, regarding changes as stated below and restate the Agreement in its entirety.

NOW, THEREFORE, in consideration of their mutual promises, covenants and conditions, hereinafter set forth, the sufficiency of which is acknowledged, the parties agree as follows:

1. That Paragraph Forty-Four (44) Trafficking In Persons Provisions – Private Entity – of the Agreement, added by Amendment II, is deleted in its entirety and the following inserted in its place:

“44. TRAFFICKING IN PERSONS PROVISIONS – PRIVATE ENTITY

CONTRACTOR shall conform to all Federal statutes and regulations prohibiting trafficking in persons, as well as trafficking-related activities, including, but not limited to the trafficking of persons provisions in Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA) as amended by Section 1702.

CONTRACTOR, CONTRACTOR’s employees, subrecipients, and subrecipients’ employees may not:

A) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

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1 B) Procure a commercial sex act during the period of time that the award is in effect;
2 or

3 C) Use forced labor in the performance of the award or subawards under the award.

4 This agreement may be unilaterally terminated, without penalty, if CONTRACTOR or a
5 subrecipient that is a private entity is determined to have violated a prohibition of the TVPA or has an
6 employee who is determined by the DBH Director or her designee to have violated a prohibition of the
7 TVPA through conduct that is either associated with performance under the award or imputed to the
8 CONTRACTOR or their subrecipient using the standards and due process for imputing the conduct of
9 an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies
10 on Government-wide Debarment and Suspension (Nonprocurement).

11 CONTRACTOR must inform the DBH Director or her designee immediately of any
12 information received from any source alleging a violation of a prohibition of the TVPA.

13 CONTRACTOR must sign a certification annually acknowledging the Trafficking
14 Victims Protection Act of 2000 requirements (TVPA Certification), attached hereto as Exhibit E,
15 incorporated herein by reference and made part of this Agreement and must require all employees to
16 complete annual TVPA training".

17 2. That the following paragraphs are being added to the Agreement as Paragraphs Forty Five
18 (45) to Forty-Seven (47). The remaining Paragraphs (Paragraph Forty-Five (45) "**GOVERNING**
19 **LAW**" and Paragraph Forty-Six (46) "**ENTIRE AGREEMENT**") shall be re-numbered sequentially
20 to read as Paragraphs Forty-Eight (48) and Forty-Nine (49).

21 **"45. UNLAWFUL USE OF DRUGS AND ALCOHOL**

22 CONTRACTOR shall ensure that information provided to clients contains a clearly written
23 statement that there shall be no unlawful use of drugs or alcohol associated with CONTRACTOR.
24 Additionally CONTRACTOR shall ensure that no aspect of the program includes any message in
25 materials, curricula, teachings, or promotion of the responsible use, if the use is unlawful, of drugs or
26 alcohol pursuant to Health and Safety Code (HSC) 11999-11999.3. CONTRACTOR shall maintain that
27 any unlawful use of drugs and alcohol is illegal and dangerous.

28 CONTRACTOR must sign the "Unlawful Use of Drugs and Alcohol Certification", attached

hereto as Exhibit F, incorporated herein by reference and made part of this Agreement agreeing to uphold the obligations of HSC 11999 – 11999.3.

COUNTY shall enforce the requirement of “No Unlawful Use” set forth by DHCS and requires CONTRACTOR to enforce the requirement as well.

This agreement may be unilaterally terminated, without penalty, if CONTRACTOR or a subcontractor that is a private entity is determined to have violated a prohibition of the Unlawful Use of Drugs and Alcohol message or has an employee who is determined by the DBH Director or her designee to have violated a prohibition of the Unlawful Use of Drugs and Alcohol message.

46. RESTRICTION ON DISTRIBUTION OF STERILE NEEDLES

CONTRACTOR shall adhere to the State-County Contract requirement that no funds shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug unless the DHCS chooses to implement a demonstration syringe services program for intravenous drug users.

47. CONFIDENTIALITY OATH

CONTRACTOR shall ensure that all of its employees sign a written confidentiality oath, attached hereto as Exhibit G, before they begin employment with CONTRACTOR and shall renew said document annually thereafter. CONTRACTOR shall retain each employee’s written confidentiality oath for COUNTY and DHCS inspection for a period of six (6) years following the termination of this agreement.”

3. COUNTY and CONTRACTOR agree that this Amendment III is sufficient to amend the Agreement; and that upon execution of this Amendment III, Agreement 13-492, Amendment I, Amendment II and Amendment III together shall be considered the Agreement.

4. The Agreement, as hereby amended, is ratified and continued. All provisions, terms, covenants, conditions, and promises contained in the Agreement and not amended herein shall remain in full force and effect. This Amendment III shall be effective July 1, 2017.

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1 IN WITNESS WHEREOF, the parties hereto have executed this Amendment III to Agreement
2 No. A-16-295 as of the day and year first hereinabove written.

3
4 ATTEST:

5 **PROVIDER**

6 **BAART BEHAVIORAL HEALTH, INC.**

COUNTY OF FRESNO

7
8 By  _____

By  _____

Brian Pacheco, Chairman
Board of Supervisors

9
10 Print Name: Daniel Gutschewitz

11 Title: Vice President
12 Chairman of the Board, or
13 President, or any Vice President

Date: 10-20-17

14
15 By  _____

BERNICE E. SEIDEL, Clerk
Board of Supervisors

By  _____

Deputy

16
17
18 Print Name: Daniel Gutschewitz

Date: 10-20-17

19 Title: Chief Financial Officer
20 Secretary of Corporation,
21 any Assistant Secretary, or
22 Chief Financial Officer, or
23 Assistant Treasurer

1 APPROVED AS TO LEGAL FORM:
2 DANIEL CEDERBORG, COUNTY COUNSEL

3
4 By *Janelli E. Kelly*
5

6 Date: _____

7 OSCAR J. GARCIA, C.P.A., AUDITOR-CONTROLLER/
8 TREASURER-TAX COLLECTOR

9
10 By *Alan E. Calley Jr*

11 Date: *5/30/17*
12

13 REVIEWED AND RECOMMENDED FOR
14 APPROVAL:

15
16 By *Dawan Utecht*
17 Dawan Utecht, Director
18 Department of Behavioral Health

19 Date: *5/19/17*
20

21 The following is for COUNTY's use:

22 Fund/Subclass: 0001/10000

23 Organization: 56302081

24 Account/Program: 7295/0
25
26
27
28

jc

TRAFFICKING VICTIMS PROTECTION ACT OF 2000

CERTIFICATION

I, Daniel Gutschewitz, as an authorized agent of
(Print Name)
BAART Behavioral Health Services Inc., acknowledge the requirement to
(Organization Name)
comply with the Trafficking Victims Protection Act of 2000 (TVPA), specifically Section 106(g), which authorizes the County of Fresno to terminate a contract, without penalty, if this organization or its employees, or a subcontractor or its employees:

- Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
- Procures a commercial sex act during the period of time that the award is in effect; or
- Uses forced labor in the performance of the award or subawards under the award.

I understand that the TVPA establishes human trafficking and related offenses as federal crimes and attaches severe penalties to them. I will immediately inform the County of Fresno, Department of Behavioral Health, Contracts Division – Substance Use Disorder (SUD) Services immediately of any information received from any source alleging a violation of the TVPA by either this organization or its employees, or a subcontractor or its employees during the term of this contract.

I understand that this organization is obligated to ensure any subcontractors are informed of the requirements of the TVPA and, if found in violation, will be immediately terminated. I agree to submit this signed certification annually on behalf of the organization acknowledging requirements under the TVPA and attesting that all employees will receive annual TVPA training, and that documentation of training will be placed in personnel files.

Signature: [Signature]

Date: 5.19.17

Title: Vice President

UNLAWFUL USE OF DRUGS AND ALCOHOL

CERTIFICATION

I, Daniel Entschewitter, as an authorized agent of
(Print Name)
Boart Behavioral Health Services Inc., acknowledge the requirement to
(Organization Name)

comply with California HSC 11999-11999.3, which authorizes the County of Fresno to terminate a contract, without penalty, if this organization or its employees, or a subcontractor or its employees fail to ensure that:

- The program contains a component that clearly explains in written materials that there shall be no unlawful use of drugs or alcohol. No aspect of a drug- or alcohol-related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol;
- All aspects of a drug- or alcohol-related program are consistent with the "no unlawful use" message, including, but not limited to, program standards, curricula, materials, and teachings; and
- The "no unlawful use" of drugs and alcohol message contained in drug- or alcohol-related programs applies to the use of drugs and alcohol prohibited by law.

I understand that the State of California enforces an Unlawful Use policy in which there is zero tolerance for promoting the unlawful use of and drugs or alcohol in an AOD treatment facility. If this organization fails to satisfy the guidelines adopted by the State of California, the drug or alcohol program shall not receive state funds and their contract with Fresno County will be terminated.

I understand that this organization is obligated to ensure any subcontractors are informed of the requirements of HSC 11999-11999.3 and, if found in violation, will be immediately terminated.

Signature: 

Date: 5.19.17

Title: Vice President



County of Fresno

DEPARTMENT OF BEHAVIORAL HEALTH
DAWAN UTECHT
DIRECTOR

EXHIBIT G

PRIVACY AND SECURITY AGREEMENT REGARDING AUTHORIZED ACCESS TO CONFIDENTIAL PROTECTED HEALTH INFORMATION FOR FRESNO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH (DBH) EMPLOYEES AND/OR NON-DBH SUD SERVICES WORKFORCE MEMBERS

OATH OF CONFIDENTIALITY

As a condition of obtaining access to any Protected Health Information (PHI) that is necessary to carry out my function with DBH, I Daniel Gutschewitter, agree to not divulge any PHI to unauthorized persons. Furthermore, I maintain that I will not publish or otherwise make public any information regarding persons who receive Substance Use Disorder Services such that the persons who receive or have received such services are identifiable.

Access to such data shall be limited to Fresno County DBH personnel, subcontractors, and subcontractors' personnel who require this information in the performance of their duties and have signed an Oath of Confidentiality with DBH.

By signing this oath, I agree to uphold the security and confidentiality requirements outlined by the Medi-Cal Privacy and Security Agreement signed by DBH, surveillance and safeguarding announcements issued by DHCS, and other applicable terms and stipulations provided by the HIPAA doctrine as well as other relevant state and federal regulations.

I hereby certify my understanding of the need to:

1. Exercise due care to preserve data integrity and confidentiality.
2. Treat passwords and user accounts as confidential information.
3. Take reasonable precautions to ensure the protection of PHI from unauthorized access.
4. Notify CMHDMEDS@dhcs.ca.gov and iso@dhcs.ca.gov of a possible security violation including unauthorized access to PHI.

I recognize that unauthorized release of confidential information may make me subject to civil and criminal sanctions pursuant to the provisions of the Welfare and Institutions Code Section 14100.2, Welfare and Institutions Code Section 5328 et seq. and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). I further acknowledge that the unauthorized release of confidential information as described in this document may result in disciplinary action up to and including termination of any office of employment or contract.

Agency Name BAART Behavioral Health Services, Inc.

Signature: 

Date: 5.19.17