RESOLUTION - ACTION REQUESTED 2019-84

MEETING: February 12, 2019

TO: The Board of Supervisors

FROM: Chevon Kothari, Health and Human Services Director

RE: Approve Spoke Agreement with MedMark Treatment Centers, Inc.

RECOMMENDATION AND JUSTIFICATION:
Presentation by and Introduction of MedMark Treatment Centers, Inc; Approve the Contractor Spoke Agreement with MedMark Treatment Centers, Inc.; Authorize the Board of Supervisors Chair to Sign the Agreement; and Authorize the Health and Human Services Agency to Participate as a Medication Assisted Treatment Spoke Agency and Implement the Necessary Activities to Serve Clients.

The Department of Health Care Services (DHCS) Substance Use Disorder contract with Mariposa County requires us to offer Medication Assisted Treatment as part of five core services offered to all Medi-Cal beneficiaries statewide. The Agency has reached out to MedMark who hold expertise in this field and who have a regional office (hub) in Fresno. This agreement will allow us to leverage our existing physicians and registered nurses to administer medications to clients as they work under the covering of the MedMark Fresno hub. This agreement will establish a hub and spoke connection - our agency will become a spoke, and MedMark Fresno will be the hub. This will build our capacity and qualifications, offer more services to our clients, and fulfill the DHCS contract requirements.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
This is a new agreement with MedMark Treatment Centers, Inc. to participate as a Medication Assisted Treatment Spoke.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
If this Agreement is not approved, County of Mariposa will miss an opportunity to provide Medication Assisted Treatment as a spoke agency and forego the associated reimbursement revenue. The Agency will need to satisfy the DHCS requirement to offer Medication Assisted Treatment through other, costlier means.

FINANCIAL IMPACT:
This Agreement is cost neutral to the County. The County Behavioral Health program will receive reimbursement for services provided under this agreement. There is no impact to the County General Fund.

ATTACHMENTS:
MedMark Agmt 2019 (PDF)
Resolution - Action Requested 2019-84

RESULT:   ADOPTED [UNANIMOUS]
MOVER:   Rosemarie Smallcombe, District I Supervisor
SECONDER: Kevin Cann, District IV Supervisor
AYES: Smallcombe, Jones, Long, Cann, Menetrey
Here is information on 2019-84...

On 2/19/10 we sent two originals to MedMart for signatures. On 3/5/19 we received this email stating that the corporate office would not return an original.

This black and white scan with all signatures was attached to the 3/5/19 email.

This electronic message may contain information that is confidential and/or legally privileged. It is intended only for the use of the individual(s) and entity named as the recipients in the message. If you are not an intended recipient of the message, please notify the sender immediately and delete the material from any computer. Do not deliver, distribute, or copy this message, and do not disclose its contents or take action in reliance on the information it contains.

---------- Forwarded message ----------
From: Beth Rose <brose@mariposahsc.org>
Date: Mon, Mar 9, 2020 at 1:56 PM
Subject: Fwd: 2019 Agreement
To: Randy Ridenhour <ridenhour@mariposahsc.org>
Attended a copy of the fully executed Hub & Spoke contract for your records. The original hard copy will not return to me from our corporate office.

Regards,

Michael Vang, MSM

Hub & Spoke Systems Coordinator

1310 M Street | Fresno. CA 93721

O: 559.264.2700 Ext 5771 | F: 559.264.2767

MedMark
TREATMENT CENTERS

From: Beth Rose [mailto:brose@mariposahsc.org]
Sent: Thursday, February 14, 2019 3:37 PM
To: Michael Vang <MVang2@medmark.com>
Cc: Chevon Kothari <ckothari@mariposahsc.org>; Dumile Wilson <dwilson@mariposahsc.org>
Subject: 2019 Agreement

Thank you for your help in working on this agreement. I have attached a copy of the agreement with the county signatures for your records, but I have put the 2 originals in the mail, USPS.

Then, I have also attached out W9 per your request.
CONTRACTOR SPOKE AGREEMENT

This CONTRACTOR SPOKE AGREEMENT (this "Agreement") is entered into as of the 24th day of February, 2019 (the "Effective Date") by and between Medmark Treatment Centers, Inc., a Delaware corporation (the "Company"), and County of Manasota (the "Contractor").

WITNESSETH:

WHEREAS, the Company desires to retain Contractor, as an independent contractor, and Contractor desires to accept such retention, to provide certain Services (as defined below) to the Company pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and other consideration contained in this Agreement, the delivery and sufficiency of which is acknowledged, the parties agree as follows:

1. TERMS OF AGREEMENT. The initial term of this Agreement shall be for twelve (12) months beginning on the Effective Date. The initial term shall be extended for successive renewal terms of one (1) year each, unless either party gives the other written notice of its intent not to extend the term at least thirty (30) days before the expiration of the then-current initial or extension term. This Agreement shall also be subject to termination as provided in Section 12 below.

2. RESPONSIBILITIES OF CONTRACTOR. During the term of this Agreement, Contractor shall provide to the Company the services described in the attached Schedule 1 (collectively, the "Services").

3. INDEPENDENT CONTRACTOR RELATIONSHIP. It is clearly understood and agreed that Contractor is an independent contractor and will continue to be an independent contractor throughout the term of this Agreement. Contractor and/or any of Contractor's employees shall be an employee of the Company in performing the Services under this Agreement for any purpose whatsoever, including, but not limited to, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, Income tax withholding (Federal, state and local) and any and all state taxes. Contractor agrees to timely file any necessary Federal Income tax returns, whether quarterly, annually or otherwise. The Company shall neither control nor shall it have the right to control the manner, mode, process, procedure, and detail in which Contractor performs the Services, the Company only being concerned with the performance of such services in a highly professional, ethical, and competent manner. Nothing in this Agreement is intended or shall be deemed to create the relationship of principal and agent, joint venture, partnership, employee and employer, or any relationship other than that of an independent contractor. The professional responsibility to patients for delivery of professional services under this Agreement shall at all times remain with Contractor, and Contractor and/or Contractor's medical providers shall exercise independent professional judgment in the conduct of any activities that may reasonably be considered to constitute the practice of medicine. Neither the Company nor any of its agents or employees shall interfere in any way with the professional judgment of Contractor's medical providers in the provision of professional services.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS. Contractor represents, warrants and covenants to the Company as follows:

a. All medical providers Contractor provides to perform the Services are duly licensed to practice medicine without restriction in the State of California; are duly authorized by the State of California to prescribe medications and to make diagnoses; and have never had any such license or authorization limited, withdrawn, suspended, curtailed, placed on probation, or revoked in any state or jurisdiction, except as otherwise disclosed in writing to the Company, and acknowledged in writing by the Company, at least ten (10) days before such provider provides any of the Services under this Agreement;

b. No medical providers Contractor provides to perform the Services have ever been denied healthcare facility membership or reappointment to membership on or clinical privileges at a healthcare facility, and no such healthcare facility medical staff membership or clinical privileges have ever been limited, suspended, curtailed, revoked, placed on probation, or withdrawn as a result of action (whether formal or informal) initiated by the healthcare facility or its medical staff, except as otherwise disclosed in writing to the Company, and acknowledged in writing by the Company, at least ten (10) days before such provider provides any of the Services under this Agreement;

c. No medical providers Contractor provides to perform the Services have ever been convicted of a criminal offense related to healthcare or debarred, excluded or otherwise ineligible for participation in federal healthcare programs;

d. No medical providers Contractor provides to perform the Services have ever been convicted of a felony or any crime involving moral turpitude, except as otherwise disclosed in writing to the Company, and acknowledged in writing by the Company, at least ten (10) days before such provider provides any of the Services under this Agreement;
c. Contractor certifies to the best of Contractor's knowledge that at this time there are no pending criminal or civil litigation against Contractor or any medical providers Contractor provides to perform the Services, including but not limited to malpractice actions;

d. Contractor has identified all medical providers Contractor provides to perform the Services in Schedule 4 herein. Contractor agrees to notify the Company in writing ten (10) days prior to any changes in medical providers and Schedule 4 shall be amended to reflect any such changes; and

e. Contractor is not bound by any agreement that will be breached by Contractor’s acceptance of and adherence to the terms of this Agreement.

3. PERFORMANCE STANDARDS. In performing the Services under this Agreement, Contractor shall meet the following performance standards:

a. Contractor and all medical providers Contractor provides to perform the Services shall perform the Services in a highly professional, ethical, and competent manner;

b. All medical providers Contractor provides to perform the Services shall hold a controlled substance registration from the DEA to prescribe Schedule II and Schedule III medications.

c. All medical providers Contractor provides to perform the Services shall comply with all requirements to maintain a waiver to prescribe buprenorphine under the Drug Addiction Treatment Act of 2000 (the “DEA Waiver”). Contractor further agrees that no medical provider Contractor provides to perform the Services will treat more patients than permitted under the provider’s DEA Waiver.

4. NO AUTHORITY TO BIND COMPANY. Contractor shall not have authority to bind the Company to any instrument, contract, or other agreement and shall not execute any instrument, contract, or other agreement in the name of the Company. Contractor shall not represent that Contractor has such authority to any person or entity.

5. EQUIPMENT, SUPPLIES AND PERSONNEL. Contractor agrees to provide adequate facilities, equipment, supplies, and administrative personnel as necessary for Contractor to provide the Services under this Agreement. All title to supplies, equipment, and furnishings shall remain the sole property of the Contractor.

6. COMPENSATION. As compensation for the services to be rendered by Contractor pursuant to this Agreement, the Company shall pay Contractor for services rendered as allowed by the terms of the State of California Department of Health Care Services’ Targeted Response Grant Program. Allowable expenses include:

a. Induction - during Program patients’ first 30 days, Physician/Provider (PAs or NPs) visits, HIV and HCV testing, other OUD related direct patient care expenses at the Contractor’s standard rates (not to exceed $750.00 for first month of treatment);

b. Physician/Provider visits, other OUD related direct patient care expenses during each subsequent month after induction at the Contractor’s standard rates (not to exceed $350.00 per patient per month);

c. Salary replacement for Physician/Provider time away from the office for Learning Collaborative Meetings. Reimbursement will be at the actual salary level for the individual based on wage statements, not to exceed $250.00/hour for Physicians and $90.00/hour for other providers with the prior written approval of the Company’s HSS Coordinator. The Company will also reimburse Contractor for travel where such travel is directly related to Learning Collaborative Meetings including time during travel.

d. Salary replacement for Physician/Provider for Data 2000 Training (up to 8 hours for Physicians, up to 24 hours for other providers). Reimbursement will be at the actual salary level for the individual based on wage statements, not to exceed $250.00/hour for Physician and $90.00/hour for other providers, with the prior written approval of the Company’s HSS Coordinator;

e. Up to $200 for cost of Data 2000 continuing medical education (CME) training course for Physicians/Providers with prior written approval of the Company’s HSS Coordinator; and

f. Mileage for Physicians/Providers will also be an allowable expense for travel to learning collaborative meetings for providers (according to the Company’s reimbursement rates).

7. INSURANCE. Contractor is responsible for carrying professional liability insurance for any services provided to patients under this Agreement.
10. **Medical Records.** Contractor shall utilize reasonable efforts to ensure that all medical records related to the Services under this Agreement shall be prepared and maintained in accordance with all applicable laws and regulations. Records relating to Services shall remain the property of the Contractor and shall be retained by the Contractor in accordance with applicable state and Federal laws and regulations. The Company shall, for professional purposes, have the right to review and make a copy of any and all such records created under this Agreement which are in the Contractor’s possession. All records relating to services provided under this Agreement are subject to audit by the Company and state and federal authorities. Contractor shall provide access to any records related to the Services under this Agreement to the Company, and state and federal authorities.

11. **Confidentiality.**

   a. Contractor acknowledges that, during the term of this Agreement, Contractor will have contact with confidential business plans, methods of operations, fee schedules, marketing strategies, records, trade secrets and other information of a confidential nature regarding the Company and the Company’s patients ("Confidential Information"). Therefore, during and after the term of this Agreement, Contractor shall not in any manner, directly or indirectly, disclose to any person or other entity not directly affiliated with the Company, or use for any purpose other than the provision of services pursuant to this Agreement, any Confidential Information. At the time of this Agreement expires or terminates for any reason, Contractor shall immediately return to the Company any and all such Confidential Information, including without limitation to original, or copies of, policies, procedures, patient medical records or billing information or records in Contractor’s possession or control.

   b. Contractor acknowledges and agrees that a breach or violation of the covenant contained in this Section 11 will have an irreparable, material and adverse effect upon the Company and that damages arising from any such breach or violation may be difficult to ascertain. Without limiting any other remedy at law or in equity available to the Company, in the event of a breach of the covenants contained in this Section 11, the Company shall have the right to an immediate injunction enjoining Contractor’s breach or violation of such covenant or covenants, without the need to post any security or bond. The Company shall have the right to receive from Contractor attorney’s fees, costs and expenses in the event any litigation or judicial proceeding is necessary to enforce the provisions of this Section 11. Every right and remedy of the Company shall be cumulative and the Company, in its sole discretion, may exercise any and all rights or remedies stated in this Agreement or otherwise available at law or in equity.

   c. The covenants and provisions of this Section 11 shall survive the expiration or termination, for any reason whatsoever, of this Agreement.

12. **Termination.** Beginning one (1) year after the Effective Date, either party may terminate this Agreement for any reason or for no reason whatsoever, upon thirty (30) day’s prior written notice. Notwithstanding the foregoing, this Agreement may be terminated immediately at any time as set forth below:

   a. If any medical provider Contractor provides to perform the Services becomes disqualified to practice medicine in the State of California or fails to maintain the unrestricted right to prescribe controlled substance, dangerous drugs and narcotics, the Company may terminate this Agreement immediately upon notice to Contractor;

   b. If the Company’s good faith judgment, any medical provider Contractor provides to perform the Services is negligent in the performance of medical services, the Company may terminate this Agreement immediately upon notice to Contractor;

   c. If any medical provider Contractor provides to perform the Services is excluded from participation in, lacks good standing, for any reason in, or is otherwise disciplined by any Federal or state healthcare reimbursement program, including the Medicare and Medicaid programs, the Company may terminate this Agreement immediately upon notice to Contractor;

   d. If the Company is no longer a recipient of the State of California Department of Health Care Services’ Targeted Response Grant Program, the Company may terminate this Agreement immediately upon notice to Contractor;

   e. If any medical provider Contractor provides to perform the Services no longer maintains his/her DEA Waiver and is unable to prescribe medication under his/her DEA Waiver, the Company may terminate this Agreement immediately upon notice to Contractor;

   f. If Contractor or any medical provider Contractor provides to perform the Services is convicted of a felony or crime involving moral turpitude, the Company may terminate this Agreement immediately upon notice to Contractor;

   g. If Contractor, through Contractor’s or any medical provider Contractor provides to perform the Services acts or fails to act, endangers the health, life or safety of any patient, employee of the Company or other person, the Company may terminate this Agreement immediately upon notice to Contractor;
h. If Contractor takes or omits to any action, the result of which is to harm, or to compete with, the business of the Company or its affiliates, the Company may terminate this Agreement immediately upon notice to Contractor;

i. If Contractor breaches any representation or warranty of Contractor in this Agreement or violates any covenant or other term of this Agreement and such violation continues for ten (10) days after written notice thereof to Contractor, the Company may terminate this Agreement immediately upon notice to Contractor;

j. If Contractor dies or becomes disabled, the Company may terminate this Agreement, such termination to be effective upon the death or disability of Contractor. For the purposes of this Section 13(j), the term “Disability” shall mean any physical or psychological disability which shall have rendered Contractor unable to perform his duties hereunder, even with reasonable accommodation, for a period of ninety (90) consecutive days or ninety (90) days within one six-month period; or

k. If the Company fails to comply in any material respect with the terms of this Agreement and such failure continues for thirty (30) days after written notice thereof to the Company, Contractor may terminate this Agreement immediately.

The Company shall have the right to terminate or unilaterally amend this Agreement, without liability, to comply with any legal order issued, or proposed to be issued, by a Federal or state agency or to comply with any provision of law or requirement of accreditation, participation or licensure which: (i) invalidates or is inconsistent with the provisions of this Agreement or (ii) would cause a party to be in violation of the law. If the Company deems it necessary to amend this Agreement as provided in this Section and the amendment is unacceptable to Contractor, Contractor may choose to terminate this Agreement without liability.

Upon termination, all rights and obligations of the parties under this Agreement shall not relieve Contractor of obligations to reasonably complete the treatment of patients then receiving treatment and to cooperate with the Company in arranging for the transfer of care of such patients to a Contractor acceptable to Company.

13. RESTRICTIVE COVENANTS. The Contractor agrees to the following restrictive covenants that shall apply whether or not the term of this Agreement expires or this Agreement is terminated with or without cause, voluntarily or involuntarily, by either Company or the Contractor, at the expiration of the original term or otherwise:

a. During the term of this Agreement and for a period of one year after expiration or termination of this Agreement for any reason, the Contractor agrees not to, directly or indirectly, for the account or benefit of the Contractor or any other person or in conjunction with others, hire, solicit, entice or otherwise seek to encourage any employee or independent contractor of the Company to terminate that Person’s employment or unemploy the Company for the purpose of participating in or being connected in any manner with the ownership, management, operation, or control of any business enterprise engaged in a health care business within the Restricted Area that is competitive with the health care business conducted by the Company at the facility where the Contractor renders the Services or at any other health care facility operated by the Company within the Restricted Area. As used herein, the term “Restricted Area” means the area located within a thirty (30) mile radius of any facility operated by the Company.

b. During the term of this Agreement and for a period of one year after expiration or termination of this Agreement for any reason, the Contractor further agrees not to, directly or indirectly, for the account or benefit of the Contractor or any other person or in conjunction with others, solicit, entice or otherwise seek to encourage any governmental health care program, or any other health plan, health insurer or health care provider or payer from doing business with the Company with the object of having such business transferred to, or otherwise promoting or advancing the business interests of, a business enterprise in which the Contractor, directly or indirectly, participates in the ownership, management, operation, control or ownership, that is competitive with the facility where the Contractor renders the Services or any other health care facility operated by the Company within the Restricted Area.

c. The covenants in this Section 13 shall survive the expiration or termination for any reason of this Agreement.

14. COMPLIANCE WITH CERTAIN LAWS. Contractor and the Company have entered into this Agreement with the intent of conducting their relationship in full compliance with the Medicare Anti-Kickback Statute, 42 U.S.C. 1320a-7(b)(4) (the “Anti-Kickback Statute”), the Ethics in Patient Referrals Act of 1992, 42 U.S.C. 1395m (the “Stark Law”), and all applicable federal and state laws regarding Contractor self-referral, illegal remuneration, billing, and the submission of claims (the “Other Laws”). If in the opinion of legal counsel to any party it becomes necessary to amend this Agreement to prevent the violation or potential violation of the Anti-Kickback Statute, the Stark Law, or any of the Other Laws (whether due to legislation, regulation, advisory, fraud alert, industry guidance, Office of Inspector General Advisory Opinion, change in the interpretation of any such laws, the taking of a public or private interpretive position by any government investigator or official), or for any other good faith reason), then the parties shall negotiate in good faith to amend this Agreement to modify its terms to prevent such violation or potential violation, all while maintaining
substantially the same economic relationship between the parties. If the parties are unable to agree upon the amendment within sixty (60) days after any party gives written notice of the need for the amendment, then this Agreement shall terminate. If either party believes it reasonably necessary to prevent further violation or potential violation, then all transactions under this Agreement shall cease during the period of negotiation of any amendment to this Agreement pursuant to this Section.

15. HIPAA COMPLIANCE. Contractor agrees not to use or disclose any protected health information (as defined in 42 CFR Part 164) or individual health information (as defined in 42 CFR Part 142) (collectively, the "Protected Health Information") concerning any patient who received treatment pursuant to this Agreement, other than as expressly permitted by the requirements of the federal privacy regulations as contained in 42 CFR Part 164 and the federal security standards as contained in 42 CFR Part 142. Contractor shall, for certain Services furnished under this Agreement, constitute a business associate of the Company, and agrees to comply with the terms of the HIPAA Business Associate Addendum, furnished as Amendment I.

16. ALCOHOL AND DRUG ABUSE TREATMENT RECORDS CONFIDENTIALITY COMPLIANCE. Notwithstanding HIPAA requirements for the privacy and security of Protected Health Information, Contractor agrees not to use or disclose alcohol and drug abuse treatment records concerning any patient who received treatment pursuant to this Agreement (collectively, "Alcohol and Drug Abuse Records"), which may or may not be segregable from other Protected Health Information and whether or not Contractor renders Services to such patient, other than as expressly permitted by the requirements of the federal confidentiality regulations governing Alcohol and Drug Abuse Records as contained in 42 CFR Part 2 and as further set forth in the respective policies, procedures and directives of the Company regarding the use, confidentiality, disclosure and security of Alcohol and Drug Abuse Records.

17. ACCESS TO BOOKS & RECORDS. Contractor shall make available, upon written request from the Secretary of the Department of Health and Human Services (the "Secretary"), the Comptroller General of the United States, or any of their duly authorized representatives, the contract, and books, documents, and records of Contractor that are necessary to certify the nature and extent of such cost of services rendered under this Agreement. If the Contractor carries out Contractor's duties under this Agreement through a subcontract, with a value or cost of $10,000 or more over a twelve (12) month period, with a related organization, then the subcontract shall contain a clause to that effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents, and records of such organization that are necessary to verify the nature and extent of such cost. If Contractor is requested to disclose any books, documents, or records relevant to this Agreement for the purpose of an audit or investigation, then Contractor shall notify the Company of the nature and scope of such request and shall make available, upon written request of the Company, all such books, documents, or records. Notwithstanding anything in this paragraph, Contractor shall not subcontract any of Contractor's duties under this Agreement without the Company's prior written consent.

18. EXCLUDED PROVIDER. Contractor represents and warrants to the Company that Contractor nor any medical provider provides Contractor provides to perform the Services is not now listed by a federal agency as excluded, debarred, suspended, or otherwise ineligible to participate in federal programs, including Medicare and Medicaid, and is not now listed or has ever been listed, nor has any current reason to believe that during the term of this Agreement will be so listed, on the HHS-OIG Cumulative Sanctions Report or the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs. Contractor shall give Company immediate notice if Contractor or any medical provider Contractor provides to perform the Services is listed on the HHS-OIG Cumulative Sanctions Report or on the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Program; Contractor's notice shall be communicated to Company orally and followed with notice as provided in this Agreement.

19. NON-DISCRIMINATION. The parties to this Agreement shall comply with Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act (ADA) of 1990, and any other applicable federal or state laws regarding discrimination based on gender, race, national origin, age, religion, pregnancy status, military status, or persons with disability.

20. NO OBLIGATION TO REFER. Nothing in this Agreement is intended or is to be construed to restrict Contractor's professional judgment while performing professional services under this Agreement to refer any patient to any health care facility where necessary or desirable in order for a patient to obtain proper and appropriate treatment or to comply with the wishes of the patient or patient's family.

21. ASSIGNMENT. The Company depends upon the personal professional services of this Contractor under this agreement, and Contractor shall have no right to assign this Agreement or to assign or delegate any rights or duties of the Contractor under this Agreement. Any such assignment or delegation by the Contractor shall be null and void. The Company may, in its sole discretion, assign this Agreement at any time.
NOTICES: All notices required or permitted to be given under this Agreement shall be in writing, given to the applicable party at its address (by nationally recognized and reputable overnight delivery service, or certified mail) or facsimile number or email set forth below. A party may change its address or facsimile number for notice by providing written notice of the change to the other party.

To Company: MedMark Treatment Centers, Inc.
Address: Chief Executive Officer
1720 Lakeshore Drive, Suite 117
Louisville, TX 75057
Email Address: 

To Contractor: County of Mariposa
5362 Lemee Lane
P.O. Box 99
Mariposa, CA 95338
Email Address: 

Each notice shall, for all purposes, be deemed given and received: (a) if given by facsimile, when the facsimile is transmitted and confirmation of complete receipt is received by the transmitting party during normal business hours on any business day, or on the next business day if not confirmed during normal business hours; (b) if given by email, when the email is sent and confirmed; (c) if given by nationally recognized and reputable overnight delivery service, the business day on which the notice is actually received by the party; or (d) if given by United States Postal Service certified mail, return receipt requested, upon the date the notice is received as shown by the return receipt.

23. GOVERNING LAW. This Agreement shall be construed and governed pursuant to the laws of the State of California.

24. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and supersedes all other previous agreements and understandings between the parties with respect to the subject matter of this Agreement. There are no other agreements or understandings, written or oral, between the parties regarding the subject matter of this Agreement.

25. MODIFICATION AND AMENDMENT. This Agreement may only be modified or amended by a written document executed by both parties to this Agreement.

26. SEVERABILITY. In the event that any sections, sentences, clauses or phrases of this Agreement shall be found invalid, void and/or unenforceable, for any reason, neither this Agreement generally nor the remainder of this Agreement shall, as a result, be rendered invalid, void and/or unenforceable. Instead, each such provision and, if necessary, in the extent allowed by law, other provisions of this Agreement shall be reformed by a court of competent jurisdiction so as to effect, to the far as is practicable, the intention of the parties as set forth in this Agreement. Notwithstanding the preceding sentence, if such court does not make such reformation, the remainder of this Agreement shall be construed and given effect as if such invalid, void and/or unenforceable provisions had not been a part of this Agreement.

27. SUCCESSORS. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors, representatives and permitted assignees.

28. FURTHER ACTION. Each party agrees that it shall execute and deliver such further instruments or documents and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and as are consistent with the provisions of this Agreement.

29. NON-WAIVER. No waiver by either party to this Agreement of any failure by the other party to keep or perform any provision, covenant or condition of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same, or of any other provision, covenant or condition. All rights and remedies granted or referred to in this Agreement are cumulative; resort to one shall not preclude resort to another or any other right or remedy provided by law.

30. COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but which together shall constitute one and the same agreement.

[Remainder of the page intentionally left blank.]
In Witness Whereof, the parties have executed this Agreement as of the day and year first written above.

COMPANY:
MEDMARK TREATMENT CENTERS, INC.
By: 
Its: 

CONTRACTOR:
Maricopa County
By: 
Its: 

APPROVED AS TO FORM:

STEVEN W. DAHLEM
COUNTY COUNSEL
SCHEDULE I

SERVICES

Contractor shall provide medical providers to provide addiction treatment services to patients in the State of California Department of Health Care Services' Targeted Response Grant Program ("the Program"). Contractor and its medical providers shall at all times act in a manner consistent with professional and ethical standards, established by applicable state and federal agencies, licensure and accreditation bodies and professional associations while performing professional services to the Company under this Agreement. Contractor and its medical providers shall comply with all applicable federal, state and local laws and regulations as well as with all applicable requirements and standards necessary to maintain the medical providers' licensure status.

Contractor and its medical providers shall perform the following Services:

- Accept referrals from the Company as appropriate.
- Request each Program patient complete a consent for the release of information to Company.
- Have each Program patient complete a Hub and Spoke System Financial Evaluation.
- Contractor's medical providers shall provide ongoing care for Program patients identified as candidates for office-based treatment as determined by the Program's Treatment Needs Questionnaire.
- Contractor's medical providers shall manage induction and maintenance for Program patients.
- Collect data elements required by the Program, including numbers of patients in care, drug test results and retention in treatment.
- Contractor's medical providers shall adhere to standards of care for managing patients on buprenorphine.
- Refer Program patients to counseling services and require such services as appropriate.
- Provide temporary meeting space on an as needed basis for the Company Medication Assisted Treatment team to see patients in Contractor's offices.
- Check the prescription drug monitoring program database (CURES) initially and every four months, documenting these actions in patient charts.
- Prescribe buprenorphine when appropriate in Contractor's medical providers' professional opinion.
- Contractor's medical providers shall ensure patients have a prescription for naloxone.
- Share patient data with the Company and the California Department of Health Care Services for evaluation and reporting purposes.
- Contractor and Contractor's medical providers shall participate in any trainings required by the Program.
- Receive delivery of and securely store medications for Program patients prescribed by the Contractor's medical providers under this Agreement.
- Send prescriptions for medications prescribed by Contractor's medical providers under this Agreement to a pharmacy designated by the Company.
- Provide Company access to Program patient's records as needed for compliance reviews.
- Notify Program patients of the designated Company pharmacy.
- Promptly notify the Company of Program patients who are no longer being treated by Contractor's medical providers.
SCHEDULE 2
CONTRACTOR SERVICES INVOICE

INVOICE #

Month ___________________ Year 20_________________

Hub Location: ________________________________
Spoke Name: ________________________________
Spoke Payment Address: ________________________

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<th>Patient Name</th>
<th>Date(s) Seen by Physician</th>
<th>Cost(s)</th>
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Comments & Purpose of Expense:

☐ Mark if Receipt Attached

TOTAL TO BE REIMBURSED ________________________

I attest that the services identified above were provided by me and the services were medically necessary.

Spoke Designee Signature ____________________ Date ____________

Approved:

H&S Coordinator Signature __________________ Date ____________

Regional Vice President Signature __________ Date ____________

9
SCHEDULE 3

PHYSICIAN TREATMENT AUTHORIZATION FORM
Hub and Spoke Services System

[Date]
[Name of Physician]
[Insurance street address]
[City, state, ZIP code]

RE: Spoke Treatment Authorization

Assigned Patient ID:

Patient First Initial:

Patient Last:

Date of Birth:

Dear [Name of Physician]:

Thank you for providing the patient’s -(i) Treatment Needs Questionnaire, (ii) Hub and Spoke System Financial Evaluation form, and (iii) Release of Information form. Based on our review of this information, the patient qualifies for participation in the Hub and Spoke System special funding for treatment.

The patient is authorized for treatment for the next 90 days as long as the patient continues to need treatment for opioid use disorder (OUD) based on your medical judgment and you continue to participate in the Hub and Spoke System as a contracted provider and the patient does not obtain access to Medi-Cal or another treatment funding source.

Respectfully Yours,

Hub and Spoke System Coordinator
SCHEDULE 4

MEDICAL PROVIDERS

Dr. Eric Michael Sergienko MD
Medical Director of Health Services
County Health Officer
License # A55033
NPI # 1255955179
P.O. Box 5
5065 Bullion Street
Mariposa, CA 95338
209-966-3689

Dr. Jonathan Harry MD
Medical Director of
Behavioral Health Services
Psychiatrist
License # A68582
NPI # 1992862305
P.O. Box 99
5362 Lemee Lane
Mariposa, CA 95338
209-966-2000

Melissa Fluharty FNP
Mental Health Nurse
Practitioner
License # 95009075
NPI # 1457827768
P.O. Box 99
5362 Lemee Lane
Mariposa, CA 95338
209-966-2000
ATTACHMENT 1

BUSINESS ASSOCIATE AGREEMENT
BUSINESS ASSOCIATE AGREEMENT

This BUSINESS ASSOCIATE AGREEMENT ("BA Agreement") is by and between MEDMARK TREATMENT CENTERS, INC. ("Covered Entity"), and CONTRACTOR ("Business Associate"). Covered Entity and Business Associate may be referred to in this BA Agreement as a "Party" individually and as "Parties" collectively.

RECITALS

WHEREAS, Business Associate now and in the future may have relationships with Covered Entity in which Business Associate is entrusted with confidential, individually identifiable patient information ("Protected Health Information" or "PHI"), which Business Associate may access, create, receive, maintain, transmit and use in providing services or products to Covered Entity and which is otherwise protected by state or federal law.

WHEREAS, both Parties desire to meet their obligations to protect PHI under: (i) the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") and the Security Standards ("Security Rule") published by the U.S. Department of Health and Human Services ("DHHS") at 45 CFR parts 160 through 164 under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); (ii) the additional Privacy and Security Rule requirements pursuant to Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH"), including 45 CFR Sections 164.308, 164.310, 164.312, and 164.316, as amended from time to time; and (iii) the confidentiality requirements for alcohol and drug abuse patient records ("Drug Treatment Records") under 42 CFR Part 2.

WHEREAS, both Parties desire to make technical and procedural arrangements to assure that their business relationships meet each of these statutory or regulatory requirements.

WHEREAS, both Parties desire to set forth the terms and conditions pursuant to which PHI that is provided by, or created or received by, Business Associate on behalf of Covered Entity will be handled between themselves and third parties.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Definitions.

1.1 Regulatory citations in this BA Agreement are to the United States Code of Federal Regulations ("CFR"), as promulgated, interpreted, and amended from time to time by DHHS, for so long as such regulations are in effect. Unless otherwise specified in this BA Agreement, all terms not otherwise defined shall have the meaning established for purposes of parts 160 through 164 of Title 45 of the CFR, as amended from time to time.

1.2 If more than one MedMark Treatment Centers, Inc. affiliated entity is a party to this BA Agreement, Covered Entity, as used in this BA Agreement, shall collectively refer to each such entity.

2. Permitted Uses and Disclosures of Protected Health Information.

2.1 Services. Covered Entity and Business Associate have a business relationship whereby Business Associate will provide physician services ("Services") to Covered Entity that may involve the use or disclosure of Protected Health Information. The Services will be provided to Covered Entity under various service agreements (collectively, "Service Agreements") that specify the Services to be provided by Business Associate to or on behalf of Covered Entity.

2.2 Use of PHI. As specified in this BA Agreement, Business Associate may use or disclose Protected Health Information created or received from or on behalf of Covered Entity necessary to perform its obligations to Covered Entity under the Service Agreements; provided, however, that all other uses not authorized by this BA Agreement, the applicable Service Agreement, or other written instructions from the Covered Entity, are prohibited. Moreover, Business Associate may disclose PHI for the purposes authorized by this BA Agreement
only: (i) to its employees, subcontractors, and agents in accordance with Section 3.1(i) below; (ii) as directed by Covered Entity; (iii) as otherwise permitted by the terms of this BA Agreement, including, but not limited to, Section 2.4(a) and Section 2.4(b) below; or (iv) as otherwise permitted under the disclosure rules for Drug Treatment Records under 42 CFR Part 2.

2.3 Data Use. Business Associate: (a) may, with prior written notice to Covered Entity, use, analyze, and disclose the Protected Health Information in its possession for the purposes set forth at 45 CFR § 164.512(b); and (b) may aggregate the PHI in its possession with the PHI of other customers and covered entities that Business Associate has in its possession through its capacity as a business associate to such other entities, provided that the purpose of such aggregation is to provide Covered Entity with data analyses relating to the Health Care Operations of Covered Entity. Periodically, Business Associate shall notify Covered Entity of opportunities for such analyses, and provided that Covered Entity does not decline to participate, Business Associate shall promptly furnish the results of such analysis to Covered Entity. Covered Entity may also propose analyses that would be useful for its purposes, and to the extent reasonable and permissible by law and its agreements with other covered entities, Business Associate shall attempt to prepare such analyses.

2.4 Business Activities of Business Associate. Unless otherwise limited in this BA Agreement, Business Associate may:

(a) Use the PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of Business Associate;

(b) Disclose the PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of the Business Associate, provided that: (i) the disclosures are “required by law,” as defined in 45 CFR § 164.501; (ii) the disclosures do not require an authorization or “opportunity to agree” as defined in 45 CFR § 164.512; or (iii) Business Associate has received from the third party written assurances regarding its confidential handling of such PHI as required under 45 CFR § 164.308(b)(1) and 45 CFR § 164.504(e)(3); and

(c) De-identify any and all PHI provided that Business Associate implements de-identification criteria in accord with 45 CFR § 164.514(b) and further provided that Business Associate provides to Covered Entity the documentation required by 45 CFR § 164.514(b), which may be in the form of a written assurance from the Business Associate. De-identified information does not constitute PHI and is not subject to the terms of this BA Agreement; provided, however, absent prior written authorization from Covered Entity, such de-identified information shall not include business, proprietary, or other information about Covered Entity.

2.5 Responsibilities of the Business Associate. With regard to its use or disclosure of Protected Health Information, the Business Associate shall:

(a) Use or disclose the minimum amount of PHI necessary as permitted or required by this BA Agreement or as otherwise required by law to accomplish the intended purpose of such use or disclosure;

(b) Develop and maintain a comprehensive written health information privacy and security program that implements: (i) appropriate policies, procedures, and protections as required by the Privacy Rule for the privacy of PHI; (ii) appropriate Administrative (45 CFR § 164.308), Physical (45 CFR § 164.310), and Technical (45 CFR § 164.312) Safeguards (collectively, the “Safeguards”) that reasonably protect PHI, including electronic PHI (“e-PHI”), as required by the Security Rule as amended from time to time; (iii) appropriate policies, procedures, and protections to implement and document such Safeguards as required by 45 CFR § 164.316; and (iv) appropriate policies, procedures, and protections to protect Drug Treatment Records as required by 42 CFR Part 2;

(c) To the extent feasible, use commercially reasonable efforts to secure PHI through technology standards that render such PHI unreadable, uninterpretable, and indiscernible to individuals.
unauthorized to acquire or otherwise have access to such PHI in accordance with guidance established by DHHS at 74 Federal Register 19006 (April 17, 2009), or such later regulations or guidance promulgated by DHHS or issued by the National Institute for Standards and Technology ("NIST") concerning the protection or encryption of identifiable data such as PHI;

(d) Report to the designated Privacy Officer of Covered Entity, in writing, any use or disclosure of PHI that is not permitted or required by this BA Agreement of which Business Associate becomes aware within 5 business days of Business Associate’s discovery of such unauthorized use or disclosure;

(e) Establish procedures for mitigating, to the greatest extent possible, any harmful effects from any improper use or disclosure of PHI that Business Associate knows of and reports to Covered Entity as referenced in Section 2.5(d) above;

(f) Report to the designated Security Officer of Covered Entity, in writing, any breach in the security, confidentiality, integrity, or availability of e-PHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity of which Business Associate becomes aware within 5 business days of Business Associate’s discovery of such security breach;

(g) Establish procedures for mitigating, to the greatest extent possible, any harmful effects from any improper breach to the security, confidentiality, integrity, or availability of e-PHI that Business Associate knows of and reports to Covered Entity as referenced in Section 2.5(f) above;

(h) In accordance with Section 3.3 of this BA Agreement and effective as of the HITRCH Compliance Date, notify the Privacy and Security Officer of Covered Entity no later than 10 days after the first day on which Business Associate knows, or through exercise of reasonable diligence would have known, of any breach of unsecured PHI (as defined by HITRCH) accessed, maintained, retained, modified, recorded, stored, destroyed, or otherwise, held, used, or disclosed by Business Associate;

(i) Require all of its subcontractors and agents that create, receive, maintain, transmit, use, or have access to PHI under this BA Agreement, to sign a written agreement that:

   (I) Binds such subcontractors and agents to the same restrictions and conditions that apply to Business Associate pursuant to this BA Agreement as to the use or disclosure of PHI or the security, confidentiality, integrity, and availability of PHI;

   (ii) Requires such subcontractors and agents to provide adequate safeguards against improper use or disclosure or breach of security related to e-PHI;

   (iii) Contains reasonable assurances from such subcontractors and agents that the PHI they hold or maintain will remain confidential as provided in this BA Agreement and only disclosed as provided in this BA Agreement or required by law for the purposes for which it was disclosed to the respective subcontractor or agent; and

   (iv) Obligates such subcontractors and agents to immediately notify Business Associate of any breaches of the confidentiality of PHI, including any security breach of unsecured PHI, to the extent the respective subcontractor or agent obtains knowledge of such a breach;

(j) Make available all records, books, agreements, policies, and procedures relating to the use or disclosure of PHI to the Secretary of DHHS for purposes of determining Covered Entity’s compliance with the Privacy Rule, the Security Rule, and 42 CFR Part 2;

(k) Upon written request, make available within 10 days information necessary for Covered Entity to make an accounting of disclosures of an individual’s PHI or an amendment to an individual’s PHI, as applicable;
(f) As of the Effective Date, comply with the HITECH Standards, each as may be applicable to the Services provided by Business Associate to Covered Entity pursuant to this BA Agreement, including, but not limited to: (i) the prohibition of the sale of PHI without authorization, unless an exemption under HITECH § 13405(d) applies; (ii) the prohibition on receiving remuneration (directly or indirectly from individuals) for certain communications that fall within the exceptions to the definition of marketing under 45 CFR § 164.501, unless permitted by this BA Agreement and HITECH § 13406; and (iii) the requirements regarding accounting of certain disclosures of PHI maintained in an electronic health record under HITECH § 13403(c); and

(m) Subject to Section 4.5 below, return to Covered Entity or destroy, within 90 days of the termination of this BA Agreement, the PHI in its possession and return no copies (which for purposes of this BA Agreement shall mean segregable databases, files, or recording media identifiable to Covered Entity that are used by Business Associate in providing Services on behalf of Covered Entity).

2.6 Responsibilities of the Covered Entity. With regard to the use or disclosure of Protected Health Information by Business Associate, Covered Entity shall:

(a) Obtain any consent or authorization that may be required by 45 CFR § 164.506 and 45 CFR § 164.508, or applicable state law, prior to furnishing Business Associate the PHI pertaining to an individual

(b) Notify Business Associate of any limitations in Covered Entity’s notice of privacy practices in accordance with 45 CFR § 164.520 to the extent that such limitation may affect Business Associate’s use or disclosure of PHI; and

(c) Not furnish Business Associate PHI that is subject to any arrangements permitted or required of Covered Entity under 45 CFR parts 160 through 164 that may impact in any manner the use or disclosure of PHI by Business Associate under this BA Agreement and the Service Agreement(s), including, but not limited to, restrictions on use or disclosure of PHI as provided for in 45 CFR § 164.522 and agreed to by Covered Entity.

2.7 Responsibilities of the Parties with Respect to Breach Notification. Effective as of the Compliance Date, Covered Entity and Business Associate will comply with HITECH § 13402 and any regulations implementing such provisions, currently Subpart D of Title 45 of the CFR, as such regulations may be in effect from time to time (collectively, the “Breach Notification Rules”).

(a) Except as provided by 45 CFR § 164.412, Business Associate will give Covered Entity notice of any breach of unsecured PHI without unreasonable delay and in no event later than the earlier of the maximum time allowable under applicable law or 5 business days after Business Associate discovered such breach. For purposes of reporting a breach to Covered Entity, the discovery of such a breach will be deemed to occur as of the first day on which Business Associate knows or, by exercising reasonable diligence, should have known of such breach. Business Associate will be deemed to have knowledge of such a breach if it is known, or by exercising reasonable diligence should have been known, by any person (other than the person committing the breach) who is an employee, director, officer, or other agent of Business Associate.

(b) More specifically and for purposes of this BA Agreement, a “breach” is an unauthorized acquisition, access, use, or disclosure of unsecured PHI, which compromises the security or privacy of the PHI. Except as provided in 45 C.F.R. §164.402, an unauthorized acquisition, access, use, or disclosure of unsecured PHI will be presumed to be a breach unless Covered Entity or Business Associate, as applicable, demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the factors set forth in 45 C.F.R. §164.402.

(c) Upon discovery and within the time limits set forth in this Section 2.7, Business Associate shall notify Covered Entity of a breach of Unsecured PHI with sufficient information to allow compliance with the Breach Notification Rule. Such notice will be written in plain language and will include, to the extent possible or available, the following:
(i) the identification and contact information of all individuals whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during the breach;

(ii) a brief description of what happened, including the date of the discovery of the breach;

(iii) a description of the types of Unsecured PHI that were involved in the breach;

(iv) any steps that individuals who were subjects of the breach should take to protect themselves from potential harm that may result from the breach;

(v) a brief description of what Business Associate is doing to investigate the breach, to mitigate the harm to affected individuals, and to protect against further breaches; and

(vi) contact procedures for affected individuals to ask questions or learn additional information, including a toll-free telephone number, an email address, a website, or postal address.

(d) Notwithstanding the provisions of this Section 2.7 and if a law enforcement official states to Business Associate that notification of a breach would impede a criminal investigation or cause damage to national security, then: (i) the notification shall be delayed for the time period specified by the official if the official's statement is in writing and specifies the time for which a delay is required; or (ii) if the official's statement is made orally, Business Associate shall document the oral statement, including the identity of the official making the statement, and delay the breach notification for no longer than 30 days from the date of the oral statement, unless the official submits a written statement during that time period.

(e) The party responsible for the breach of Unsecured PHI shall be responsible for payment of all actual costs associated with the breach, including, but not limited to, costs of notifying affected Individuals, credit monitoring (where applicable), and other efforts to mitigate the harm to affected Individuals.

2.8 Responsibilities of the Parties with Respect to Designated Record Sets. This Section 2.8 applies only if, in the course of performing the Services, Business Associate and Covered Entity agree that Business Associate will maintain Designated Record Sets containing Protected Health Information. As such:

(a) Business Associate shall: (i) at the request of, and in the time and manner designated by Covered Entity, provide access to the PHI to Covered Entity, or the individual to whom such PHI relates, or his or her personal representative, in order to satisfy a request by such individual under HIPAA; and (ii) at the request of, and in the time and manner designated by Covered Entity, make any amendment(s) to the PHI that Covered Entity directs.

(b) Covered Entity shall: (i) notify Business Associate, in writing, of any PHI that Covered Entity seeks to make available to an individual pursuant to HIPAA and will cooperate with Business Associate as to the time, manner, and form in which Business Associate shall provide such access; and (ii) notify Business Associate, in writing, of any amendment(s) to the PHI in the possession of Business Associate that Covered Entity believes is necessary because of its belief that the PHI that is the subject of the amendment(s) has been or could be relied upon by Business Associate or others to the detriment of the individual who is the subject of the PHI.

3. Representations and Warranties of the Parties. Each Party represents and warrants to the other Party:

3.1 Workforce Informed of BA Agreement Terms. All of the Parties’ employees, agents, representatives, and members of its respective workforce, whose services may be used to fulfill obligations under this BA Agreement are or shall be appropriately informed of the applicable terms of this BA Agreement and are under legal obligation to each Party, respectively, by contract or otherwise, sufficient to enable each Party to fully comply with all applicable provisions of this BA Agreement.

3.2 Reasonable Cooperation among Parties. Each Party will reasonably cooperate with the other Party in the performance of the mutual obligations under this BA Agreement.
3.3 Prepared to Comply with HIPAA Requirements. Each Party is prepared to comply with those provisions of this BA Agreement required by 45 CFR part 164 on or before: (i) April 14, 2003 (Privacy Rule), and April 20, 2003 (Security Rule), if Service Agreements were in effect on such dates; (ii) February 17, 2010 (HITECH); or (ii) the Effective Date, if no Service Agreements were in effect prior to the Effective Date.

4. Term and Termination.

4.1 Term. This BA Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Article 4. In addition, certain provisions and requirements of this BA Agreement shall survive the expiration or termination of this BA Agreement in accordance with Section 4.5 below.

4.2 Termination by Covered Entity. As provided under 45 CFR § 164.314(a)(2)(i) and 45 CFR § 164.504(e)(2)(iii), Covered Entity may immediately terminate this BA Agreement and any related Service Agreements if Covered Entity makes the determination that the Business Associate has breached a material term of this BA Agreement. Alternatively, Covered Entity may choose to: (i) provide the Business Associate with 7-days’ prior written notice of the existence of an alleged material breach; and (ii) afford the Business Associate an opportunity to cure said alleged material breach upon mutually acceptable terms. Nonetheless, in the event that mutually agreeable terms cannot be achieved within 30 days, Business Associate must cure said breach to the satisfaction of Covered Entity within 90 days. Failure to cure in the manner set forth in this Section 4.2 shall be grounds for the immediate termination of this BA Agreement and any related Service Agreements.

4.3 Termination by Business Associate. Business Associate may immediately terminate this BA Agreement and any related Service Agreements if Business Associate determines that Covered Entity has breached a material term of this BA Agreement. Alternatively, Business Associate may choose to: (i) provide Covered Entity with 7-days’ prior written notice of the existence of an alleged material breach; and (ii) afford Covered Entity an opportunity to cure said alleged material breach upon mutually acceptable terms. Nonetheless, in the event that mutually agreeable terms cannot be achieved within 90 days, Covered Entity must cure said breach to the satisfaction of Business Associate within 90 days. Failure to cure in the manner set forth in this Section 4.3 shall be grounds for the immediate termination of this BA Agreement.

4.4 Automatic Termination. This BA Agreement will automatically terminate without any further action of the Parties upon the termination or expiration of all Service Agreement(s) between Covered Entity and Business Associate for whatever reason.

4.5 Effect of Termination. Upon the termination of this BA Agreement pursuant to this Article 4, Business Associate shall return or destroy within 90 days all Protected Health Information, including c-PHI, identifiable to Covered Entity, including such information in possession of Business Associate’s subcontractors, if it is feasible to do so. If return or destruction of said PHI is not feasible, the Business Associate shall notify the Covered Entity in writing. Said notification shall include: (i) a statement that Business Associate has determined that it is not feasible to return or destroy the PHI in its possession; and (ii) the specific reasons for such determination. In the event Business Associate determines that the return or destruction of said PHI is not feasible and has provided proper written verification to Covered Entity of this determination as prescribed in this Section 4.5, Business Associate shall extend any and all protections, limitations, and restrictions contained in this BA Agreement to Business Associate’s use or disclosure of any PHI retained after the termination of this BA Agreement, and to limit any further use or disclosures to the purpose that make the return or destruction of the PHI infeasible.

5. Miscellaneous.

5.1 Rights of Proprietary Information. Covered Entity retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate.

5.2 Nature of Agreement: Independent Contractor. Nothing in this BA Agreement shall be construed to create an employer-employee relationship or partnership, joint venture, or other joint business relationship between the Parties or any of their affiliates. Business Associate is an independent contractor, and not an agent of
Covered Entity. This BA Agreement does not express or imply any commitment to purchase or sell goods or services.

5.3 **Entire Agreement.** This BA Agreement constitutes the entire agreement of the Parties with respect to the Parties’ compliance with federal or state health information confidentiality laws and regulations, as well as the Parties’ obligations under the business associate provisions of 45 CFR parts 160 through 164 and the confidentiality provisions of 42 CFR part 2. This BA Agreement supersedes all prior or contemporaneous written or oral memoranda, arrangements, contracts, or understandings between the Parties relating to the Parties’ compliance with federal or state health information confidentiality laws and regulations and the Parties’ health information confidentiality and security obligations under 45 CFR parts 160 through 164, 42 CFR part 2, or applicable state law.

5.4 **Change of Law.** Covered Entity shall notify Business Associate within 90 days of any amendment to any provision of HIPAA, or its implementing regulations set forth at 45 CFR parts 160 through 164, which materially alters either Party’s or both Parties’ obligations under this BA Agreement. Upon provision of such notice by Covered Entity to Business Associate, the Parties shall negotiate in good faith mutually acceptable and appropriate amendment(s) to this BA Agreement to give effect to such revised obligations; provided, however, that if the Parties are unable to agree on mutually acceptable amendment(s) within 90 days of the relevant change of law, either Party may terminate this BA Agreement consistent with Sections 4.5 and 5.7 hereof.

5.5 **Construction of Terms.** The terms of this BA Agreement shall be construed in light of any interpretation or guidance on HIPAA, HITECH, the Privacy Rule, or the Security Rule issued by DHHS from time to time. Furthermore, any ambiguity in this BA Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule, the Security Rule, and 42 CFR Part 2.

5.6 **Governing Law.** In the event the laws of the State of California provide more stringent protections of PHI than HIPAA or in the event of a state law dispute between the Parties, the interpretation and enforcement of this BA Agreement shall be construed in accordance with the laws of the State of California.

5.7 **Survival.** This Section 5.7 shall survive termination of this BA Agreement for any reason. Further, the respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 2.5, 2.6, 2.7, and 4.5 above, solely with respect to PHI Business Associate retains in accordance with Section 4.5 above, shall survive the expiration or termination of this BA Agreement for so long as such PHI is retained by Business Associate.

5.8 **Amendment; Waiver.** This BA Agreement may not be modified, nor shall any provision of this BA Agreement be waived or amended, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to subsequent events.

5.9 **Assignment of Rights and Delegation of Duties.** This BA Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns. However, neither Party may assign any of its rights or delegate any of its obligations under this BA Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding any provisions herein to the contrary, Covered Entity retains the right to assign or delegate any of its rights or obligations in this BA Agreement to any of its wholly owned subsidiaries, affiliates, or successor companies. Assignments made in violation of this Section 5.9 shall be null and void.

5.10 **Equitable Relief.** Any use, disclosure, or breach of privacy or security of PHI by Business Associate in violation of this BA Agreement will cause Covered Entity irreparable harm, the amount of which may be difficult to ascertain. Business Associate therefore acknowledges and agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining Business Associate from any such further use, disclosure, or breach, and for such other relief as Covered Entity shall deem appropriate. Such rights are in addition to any other remedies available to Covered Entity at law or in equity.
5.11 **Severability.** The provisions of this BA Agreement are severable, and if any provision of this BA Agreement shall be held or declared to be illegal, invalid, or unenforceable, the remainder of this BA Agreement shall continue in full force and effect as though such illegal, invalid, or unenforceable provision had not been contained in this BA Agreement.

5.12 **No Third Party Beneficiaries.** Except as set forth in Section 1.2 of this BA Agreement, nothing in this BA Agreement is intended to confer on any person other than the Parties, or their respective successors and assigns, any rights, remedies, obligations, or liabilities under or by reason of this BA Agreement. Nothing in this BA Agreement shall be considered or construed as conferring any right or benefit on a person not a party to this BA Agreement nor imposing any obligations on either Party hereto to persons not a party to this BA Agreement.

5.13 **Notices.** Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to the appropriate Party as follows:

**COVERED ENTITY:**
MedMark Treatment Centers, Inc.
1720 Lakapointe Dr., Ste. 117
Lewisville, TX 75057
(214) 379-3314
Attention: Privacy/Security Officer

**BUSINESS ASSOCIATE:**
County of Mariposa
5362 Lамee Lane
P.O. Box 98
Mariposa, CA 95338
Attention: Privacy/Security Officer

Each Party may change its address and that of its representative for notice by the giving of notice thereof in the manner herein provided.

5.14 **Counterparts; Facsimiles.** This BA Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

5.15 **Disputes.** If any controversy, dispute, or claim arises between the Parties with respect to this BA Agreement, the Parties shall make good faith efforts to resolve such matters informally.
# Request for Taxpayer Identification Number and Certification

**Form W-9**

**Department of the Treasury**
**Internal Revenue Service**

1. **Request for Taxpayer Identification Number and Certification**
   - Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

2. **Maricopa County Department of Human Services**
   - **Taxpayer's name:** [Name]
   - **Taxpayer's business name:** [Name]
   - **Taxpayer's address:** [Address]

3. **Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.**
   - [ ] Individual or sole proprietor
   - [ ] Corporation
   - [ ] Partnership
   - [ ] Trust or estate
   - [ ] Estate of decedent or decedent's trust
   - [ ] Insured life settlement agreement

4. **Exempt payee code (if any):**

5. **Exemption from FATCA reporting code (if any):**

6. **Other (use instructions):**

7. **Governmental Agency**

8. **PO Box 99**

9. **City, state, and ZIP code:** Maricopa, AZ 9538

10. **Box 94600008600**

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### Taxpayer Identification Number (TIN)

- **Enter your TIN in the appropriate box.**
- **Social security number:**
- **Employer Identification number:**

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### Certification

- **Under penalties of perjury, I certify that:**
  1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
  2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
  3. I am a U.S. citizen or other U.S. person (as defined below); and
  4. The FATCA code(s) entered on this form(s) (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions:** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, Item 2 does not apply. For mortgage interest paid, annuity, or abandonment of a secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for the applicable provision.

**Sign Here**

**Signature of U.S. person**

**Date:** **10-18**

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### General Instructions

**Section references are to the Internal Revenue Code unless otherwise noted.**

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- **Form 1040-INT (interest earned or paid)**
- **Form 1099-DIV (dividends, including those from stocks or mutual funds)**
- **Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)**
- **Form 1098-B (stock or mutual fund sales and certain other transactions by brokers)**
- **Form 1098-S (proceeds from real estate transactions)**
- **Form 1099-K (merchant card and third party network transactions)**
- **Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)**
- **Form 1099-C (canceled debt)**
- **Form 1099-A (acquisition or abandonment of secured property)**

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.
Here is information on 2019-84...

On 2/19/10 we sent two originals to MedMart for signatures. On 3/5/19 we received this email stating that the corporate office would not return an original.

This black and white scan with all signatures was attached to the 3/5/19 email.

---------- Forwarded message ----------
From: Beth Rose <brose@mariposahsc.org>
Date: Mon, Mar 9, 2020 at 1:56 PM
Subject: Fwd: 2019 Agreement
To: Randy Ridenhour <rridenhour@mariposahsc.org>
Forwarded message

From: Michael Vang <MVang2@medmark.com>
Date: Tue, Mar 5, 2019 at 12:11 PM
Subject: RE: 2019 Agreement
To: Beth Rose <brose@mariposahsc.org>
Cc: Chevon Kothari <ckothari@mariposahsc.org>, Dumile Wilson <dwilson@mariposahsc.org>, Bee Vue <BVue@medmark.com>

Beth,

Attached is a copy of the fully executed Hub & Spoke contract for your records. The original hard copy will not returned to me from our corporate office.

Regards,

Michael Vang, MSM
Hub & Spoke Systems Coordinator
1310 M Street | Fresno, CA 93721
O: 559.264.2700 Ext 5771 | F: 559.264.2767

MedMark TREATMENT CENTERS

From: Beth Rose [mailto:brose@mariposahsc.org]
Sent: Thursday, February 14, 2019 3:37 PM
To: Michael Vang <MVang2@medmark.com>
Cc: Chevon Kothari <ckothari@mariposahsc.org>; Dumile Wilson <dwilson@mariposahsc.org>
Subject: 2019 Agreement

Thank you for you help in working on this agreement. I have attached a copy of the agreement with the county signatures for your records, but I have put the 2 originals in the mail, USPS.

Then, I have also attached out W9 per your request.
When all signatures have been signed to agreement please return an original to

County of Mariposa
Attn: Dumile Wilson
P.O. Box 99
5362 Lemee Lane
Mariposa, CA 95338

Thank you,
Beth Rose

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Beth Rose
Sr. Office Assistant
Administration
Mariposa County Health & Human Services Agency
5362 Lemee Lane, Mariposa, CA 95338
P.O. Box 99, Mariposa, CA 95338
209.742.0963
209.966.8251

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