

446



**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**FROM:** Economic Development Agency & Department of Mental Health

**SUBMITTAL DATE:**  
February 18, 2010

**SUBJECT:** New Skilled Nursing Facility Agreements - Indio and Moreno Valley

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve and execute the Skilled Nursing Facility Agreements for Indio and Moreno Valley; and
2. Authorize the Assistant County Executive Officer/EDA, or his designee, to execute other documents including but not limited to future ministerial amendments and to administer all actions necessary to complete the Indio and Moreno Valley Skilled Nursing Facility transaction.

**BACKGROUND:** (Commences on Page 2)


  
 \_\_\_\_\_  
 Jerry Wengert  
 Director, Department of Mental Health


  
 \_\_\_\_\_  
 Robert Field  
 Assistant County Executive Officer/EDA

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ -0-	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ -0-	Budget Adjustment:	No <input checked="" type="checkbox"/>
	Annual Net County Cost:	(\$7,665,000)	For Fiscal Year:	10/11

<b>SOURCE OF FUNDS:</b> Realignment 100%	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input checked="" type="checkbox"/>

**C.E.O. RECOMMENDATION:**

Reviewed by  
  
 Christopher Hans

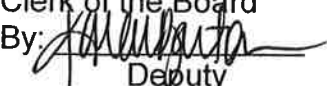
APPROVE  
 BY:   
 Jennifer L. Sargent

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone, Benoit and Ashley  
 Nays: None  
 Absent: Tavaglione  
 Date: April 6, 2010  
 xc: EDA, Mental Health, CIP, Auditor

Kecia Harper-Ihem  
 Clerk of the Board  
 By:   
 Deputy

Prev. Agn. Ref.: \_\_\_\_\_ District: 4 & 5 Agenda Number: **3.43**

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

FISCAL PROCEDURES APPROVED  
 ROBERTE BYRD AUDITOR-CONTROLLER  
 BY:   
 SUSANNA GARCIA AUDITOR-CONTROLLER  
 3/24

FORM APPROVED COUNTY COUNSEL  
 BY:   
 CYNTHIA M. GUNZEL  
 DATE: 3/23/10

Policy  
 Policy  
 Consent  
 Consent  
 Dep't Recomm.:  
 Per Exec. Ofc.:

**BACKGROUND:**

The Department of Mental Health formerly operated the Mental Health Rehabilitation Center in Indio also known as the Oasis Treatment Center for psychiatric patients, which had a capacity of approximately 35 beds. Unfortunately, due to budget constraints, the Rehabilitation Center was closed in April of 2008. The Mental Health consumers who previously occupied the facility were transferred to other facilities in outlying areas and adjacent counties in order to continue to receive care. Subsequently, the demand for overall mental health services in locked facilities in the county continues to increase, and it is projected that the current facilities owned and operated by various locked mental health facility Operators will be insufficient to meet demand. The Department currently provides services to approximately 40,000 unique individuals per year and this number continues to increase. Therefore, the Director of the Department of Mental Health has followed through on a previous verbal directive given by the Board of Supervisors to continue such mental health services by engaging the Economic Development Agency to plan and coordinate the development of two locked facilities located in Indio and Moreno Valley.

The Economic Development Agency issued a Request for Proposal (RFP) in November of 2008 for the development of Skilled Nursing Facilities in Indio and Moreno Valley. The RFP process closed on January 15, 2009, and responses were received. Optiflex Properties and Development, LLC, of Montebello, California was selected and awarded the two projects. The developer is planning a 204 bed Skilled Nursing Facility in the city of Indio on 3.82 acres just west of the John F. Kennedy Hospital and a 308 bed Skilled Nursing Facility on approximately 4 acres just east of Nason Street east of the Riverside County Regional Medical Center in Moreno Valley. These facilities are privately owned and operated, there is no lease agreement between the County and Developer, and the County does not own the realty or the improvements. In exchange for the Developer's obligations to plan, construct, and operate these Skilled Nursing Facilities the County will refer psychiatric patients to the Developer's Operator for Special Treatment Program (STP) services to these Serious and Persistent Mental Illness (SPMI) consumers. In return, the Developer will be compensated from State/Federal Medi-Cal funds based on the per diem rate set forth by the State and Federal government for Special Treatment Program services. The Skilled Nursing Facilities will be comprised of approximately 49% psychiatric patients and 51% medical nursing home patients.

Currently, the Riverside County Department of Mental Health is paying the state mandated per diem rate of \$165 per patient/day to provide STP services. The Skilled Nursing Facilities Agreement reduces this obligation to \$25 per patient/day resulting in significant savings to the County. The Developer will be compensated by State/Federal Medi-Cal based upon established Medi-Cal rates.

Current Annual Cost to Provide Psychiatric Services: (150 patients)	\$9,033,750
Costs per New Skilled Nursing Agreements: (150 patients)	\$1,368,750
Annual Savings to County: (and each year thereafter)	(\$7,665,000)

(Continued)

**BACKGROUND:**

Summary of Skilled Nursing Facility Agreements and Facilities Features:

**INDIO**

Agreement:

- Term: Ten (10) Years, commencing upon certification of occupancy
- Options: Two, ten (10) year options to renew
- Facility/Beds: Developer to plan, construct and deliver a Skilled Nursing Facility consisting of 204 beds including 49% psychiatric and 51% medical beds
- County's Obligation: County to pay \$25 per patient/day per psychiatric patient
- County's Guarantee: County to guarantee referral of psychiatric patients to occupy 50 beds.
- Completion Date: First quarter 2011

Building Features:

- Location: 81-550 JFK Court, Indio  
Assessors Parcel Number 616-160-039, on cul-de-sac
- Patient Beds: 204 beds total, consisting of 49% psychiatric and 51% medical patients
- Square Footage: 92,054 square feet
- Parking: 80 spaces required, 104 spaces to be provided
- Construction: Type VA, 2 level building
- Leed Rating: Some Leed Components

(Continued)

**BACKGROUND:**

Summary of Skilled Nursing Facility Agreements and Facilities Features:

**MORENO VALLEY**

Agreement:

Term: Ten (10) Years, commencing upon certification of occupancy

Options: Two, ten (10) year options to renew

Facility/Beds: Developer to plan, construct and deliver a Skilled Nursing Facility consisting of 308 beds including 49% psychiatric and 51% medical beds

County's Obligation: County to pay \$25 per patient/day per psychiatric patient

County's Guarantee: County to guarantee referral of psychiatric patients to occupy 100 beds

Completion Date: End of second quarter or beginning of third quarter 2011

Building Features:

Location: East of Nason Street, North of Cactus Avenue, East of RCRMC  
Assessors Parcel Numbers 486-290-001 and 486-290-002

Patient Beds: 308 beds total, consisting of 49% psychiatric and 51% medical patients

Square Footage: 128,749 square feet

Parking: 100 spaces

Construction: Type VA - 2 level building

Leed Rating: Some Leed Components

This Form 11 has been reviewed and approved by County Counsel as to legal form.

1 **SKILLED NURSING FACILITY AGREEMENT - MORENO VALLEY**

2  
3 This Skilled Nursing Facility Agreement ("Agreement"), entered into on  
4 APR 06 2010, by and between the County of Riverside, on behalf of the Department of  
5 Mental Health, a political subdivision of the State of California ("County"), and Optiflex  
6 Properties and Development, LLC, a Delaware Limited Liability Company, ("Optiflex"). County  
7 and Optiflex are hereinafter collectively referred to as the "Parties" or individually as a "Party."

8 **RECITALS**

9 A. The County of Riverside desires to provide referrals of psychiatric patients for  
10 the occupancy of Special Treatment Programs ("STP") in Skilled Nursing Facilities ("SNF"),  
11 one of which is located on real property known as Assessor's Parcel Numbers 486-290-001  
12 and 486-290-002 in the City of Moreno Valley, County of Riverside.

13 B. The County of Riverside desires to contract with a Skilled Nursing Facility  
14 Developer/Operator that would provide facilities which are safe and free from hazards, and in  
15 full compliance with all applicable laws.

16 C. Optiflex Properties and Development, LLC, a Delaware Limited Liability Company  
17 has formed a joint venture with a property owner to develop a Skilled Nursing Facility east of  
18 Nason Street north of Cactus Avenue in the City of Moreno Valley.

19 D. The Skilled Nursing Facility will provide facilities for three hundred eight (308)  
20 patients. Up to forty nine (49) percent of the beds in the SNF or a maximum of one-hundred  
21 fifty (150) beds will be located in the STP ("STP Psychiatric Beds").

22 E. Optiflex Properties and Development, LLC, will contract with a company for the  
23 operations of the Skilled Nursing Facility.

24 F. Parties enter into this agreement for a great public benefit.  
25

1 NOW THEREFORE, in consideration of the mutual covenants contained herein,  
2 the parties hereto agree as follows:

3 **AGREEMENT**

4 **1. Term.** The Original Term of this Agreement shall be for a period of ten (10)  
5 years commencing upon the date which Optiflex completes and receives a Certificate of  
6 Occupancy ("Commencement Date") on the SNF, unless terminated pursuant to the provisions  
7 hereunder. The Original Term of this agreement shall expire at midnight on the last day of the  
8 ten (10) year term. In the event the Parties do not extend the Agreement as set forth in  
9 Paragraph Two (2) below, upon expiration of the Original Term or any subsequent extensions,  
10 this Agreement shall become a month to month agreement which may be terminated with  
11 thirty (30) days advance written notice by either party. All indemnification provisions in this  
12 Agreement shall remain in effect following the termination of this Agreement.

13 **2. Options to Extend the Agreement.** The County shall have the option to  
14 extend this Agreement for two (2) additional terms of ten (10) years each. County shall  
15 provide written notice to Optiflex at least ninety (90) days before the expiration of this  
16 Agreement.

17 **3. County's Consideration.** Contingent upon the completion and issuance of  
18 certificate of occupancy for the SNF, County agrees to refer to the SNF for the STP psychiatric  
19 patients for occupancy of one hundred (100) of the one hundred fifty (150) STP Psychiatric  
20 Beds. County will guarantee filling one hundred (100) of the one hundred fifty (150) STP  
21 Psychiatric Beds ("1-100 STPPB"). County shall refer patients for the one hundred (100) STP  
22 Psychiatric Beds within ninety (90) days of issuance of the Certificate of Occupancy  
23 referenced in Paragraph One above. In the event that any of the one hundred (100)  
24 Psychiatric Beds become vacant during the term of this Agreement, County shall reimburse  
25 Optiflex for any such vacant beds, based upon the State of California Medi-Cal standard bed

1 hold rates then in effect at the time. County will also reimburse Optiflex at the Medi-Cal  
2 standard rate for any of the one hundred (100) patients who are indigent. The County will  
3 submit to the Operator a referral letter for all indigent (non-funded) patients that are referred  
4 for admittance, as shown in Exhibit "A", attached hereto and by this reference incorporated  
5 herein. In addition, County will pay twenty-five dollars (\$25) per day for every psychiatric  
6 patient placed in an STP bed for Medicare/Medi-Cal and indigent patients. This fee will not be  
7 due on vacant or bed holds. The County's sole responsibilities are to provide referrals of  
8 psychiatric patients and reimburse Optiflex for any of the one hundred (100) vacant beds or  
9 indigent patients in those beds. If County does not need all one hundred (100) beds, County  
10 has the right to make these excess beds available to other counties to meet its guarantee  
11 obligations. Optiflex will be responsible for finding other Counties/Entities or sources to fill the  
12 remaining fifty (50) STP Psychiatric Beds ("101-150 STPPB"). Optiflex will be solely  
13 responsible for all of the remaining SNF beds that are not a part of the STP Psychiatric Beds.

14 **4. Obligations by Optiflex.**

15 a. The responsibility of constructing, operating, including but not limited to  
16 the operations carried out by the services of an Operator as described below, and maintaining  
17 of the SNF is and will be the sole responsibility of Optiflex. The SNF shall provide skilled  
18 nursing services in this facility provides psychiatric patients]

19 b. Optiflex shall contract separately with a Skilled Nursing Facility Operator  
20 ("Operator") for the Special Treatment Program at the SNF ("STP/SNF") to provide skilled  
21 nursing services ("Services") for patients in the STP/SNF during the term and any extensions  
22 of this Agreement. Optiflex shall warrant that the Services of Operator shall be the highest  
23 degree of nursing care in accordance with nursing best business practices in the nursing  
24 industry. Optiflex shall ensure that Operator is in full compliance with all Medi-Cal regulations  
25 and requirements, including, but not limited to, regulations provided within [www.medi-](http://www.medi-)

1 cal.ca.gov, California Code of Regulations, Title 22, Division 3, Sections 51516.1, 51341.1,  
2 and 51490.1, and California Alcohol and Drug Program Letters 98-18, 98-30, 98-42, 98-49, 98-  
3 50, 98-58, 99-17, and 99-27. Optiflex shall ensure that the Operator provides the Services  
4 and operates in compliance with all applicable law including but not limited to laws, rules,  
5 regulations and codes of the State of California including the California Department of Public  
6 Health, and all Federal and local laws, rules, ordinances and codes.

7 c. Optiflex shall contract with an Operator that represents and maintains  
8 that it is skilled in the professional calling necessary to perform all services, duties and  
9 obligations required by this Agreement to fully and adequately provide the services for the  
10 SNF. Optiflex shall require that Operator perform the services and duties in conformance to  
11 and consistent with the standards generally recognized as being employed by professionals in  
12 the same discipline in the State of California. Optiflex shall ensure, represent and warrant to  
13 the County that the Operator has all licenses, permits, qualifications and approvals of  
14 whatever nature are legally required to practice its profession and/or provide the services and  
15 that Operator shall keep all such licenses and approvals in effect during the term of this  
16 Agreement.

17 d. Optiflex shall be responsible for billing, or obligate its contracted  
18 Operator to bill, Medi-Cal retroactive to the date of admission for psychiatric patients who have  
19 been referred by the Riverside County Department of Mental admitted with a Medi-cal pending  
20 status. In the event that County has submitted payment for an indigent patient who later  
21 qualified for Medi-cal, reimbursement is due to the County within 30 days of Optiflex or its  
22 Operator receiving payment from Medi-Cal.

23 e. Optiflex shall impose indemnification and insurance obligations in favor  
24 of the County exactly as provided in Paragraphs 10 and 11 on Operator.

25



1 f. Optiflex shall be responsible for maintaining the grounds of the SNF,  
2 including among other things, outside and inside fixtures, walls, landscaping, and general  
3 housekeeping.

4 **5. County's Right of First Refusal for Vacant Beds.** At any time during the  
5 term of this Agreement any of the 150 STPPB become vacant, County shall have the first right  
6 of refusal to refer patients for occupancy of those beds. Operator shall send written notice of  
7 the number of vacant beds available to County. County shall provide written notice within five  
8 (5) working days of receipt of the notice to indicate whether County will refer patients to fill the  
9 vacancies. If vacancies for any of the 101-150 STPPB are filled by County referrals, County is  
10 not responsible for reimbursing Optiflex whether the patient is indigent or not. At no time will  
11 the County's obligations for the 1-100 STPPB attach to the 101-150 STPPB. In the event  
12 County does not respond within the five day period, the first right of refusal shall lapse and  
13 Operator may fill said beds through other means.

14 **6. Termination by County.** In addition, the County has the right to terminate this  
15 Agreement in any of the following:

- 16 a. In the event Optiflex does not complete the SNF.
- 17 b. Without cause upon 30 days written notice at the discretion of the  
18 County of Riverside, Director of Mental Health, or designee, served upon Optiflex stating the  
19 extent and effective date of termination.
- 20 c. In the event that Optiflex and/or its Operator has been accused and/or  
21 found to be in violation of any County, State, or Federal laws or regulations.
- 22 d. Notwithstanding any advanced notice provisions herein, if in the opinion  
23 of the County of Riverside, Director of Mental Health, or designee, Optiflex and/or its Operator  
24 has failed or is failing to provide for the health and safety of the patients served under this  
25 Agreement, the County may terminate this Agreement immediately by written notice.

1 e. In the event that Optiflex fails to perform any of the terms, conditions, or  
2 obligations under this Agreement.

3 f. Anytime during the term of this Agreement or extensions, County  
4 reserves the right to direct Optiflex to terminate the contract between Optiflex and the  
5 Operator, for any reason, with sixty (60) days advanced written notice. In so directed, Optiflex  
6 shall terminate the contract with the Operator accordingly. In the event of termination of this  
7 Agreement between County and Optiflex as set forth herein, the Agreement with Operator  
8 shall automatically terminate on the same date and time. Any agreements between Optiflex  
9 and Operator shall have this language incorporated into their contract.

10 **7. Compliance.** Optiflex warrants that the SNF and improvements on and in the  
11 SNF shall comply with all applicable law, including State and Federal Laws, covenants or  
12 restrictions of record, building codes, regulations and ordinances, including all State of  
13 California Department of Public Health and OSHPOD laws, regulations, in effect on the  
14 Commencement Date and during the term of this Agreement. If the SNF does not comply  
15 with this warranty, Optiflex shall promptly after receipt of written notice from County or any  
16 governmental agency having jurisdiction over such matters setting forth the nature and extent  
17 of such non-compliance; rectify the same at Optiflex's sole cost and expense.

18 **8. Exculpation.** To the fullest extent permitted by law, Optiflex, singularly and  
19 collectively to Optiflex and the partners, venturers, trustees, and ancillary trustees of Optiflex  
20 and the Operator with whom Optiflex contract with to operate the SNF, its respective officers,  
21 directors, shareholders, members, parents, subsidiaries, and any other affiliated entities,  
22 personal representatives, executors, heirs, assigns, licensees, invites, beneficiaries, agents,  
23 servants, employees, and independent contractors of these persons or entities ("Optiflex  
24 Parties"), on its behalf and on behalf of County, its Agencies, Districts, Special Districts and  
25 Departments, their respective Directors, Officers, Board of Supervisors, elected and appointed

1 officials, employees, agents and representatives ("County Parties"), waives all claims (in law,  
2 equity, or otherwise) against County Parties, arising out of, knowingly and voluntarily assumes  
3 the risk of, and agrees that County Parties shall not be liable to Optiflex Parties for any of the  
4 following: 1) injury to or death of any person; or 2) loss of, injury or damage to, or destruction  
5 of any tangible or intangible property, including the resulting loss of use, economic losses,  
6 and consequential or resulting damage of any kind from any cause. County Parties shall not  
7 be liable under this section regardless of whether the liability results from any active or passive  
8 act, error, or negligence of any of County Parties; or is based on claims in which liability  
9 without fault or strict liability is imposed or sought to be imposed on any of County Parties.

10 a. Survival of Exculpation. The paragraphs of this Paragraph 8 shall  
11 survive the expiration or earlier termination of this Agreement until all claims within the scope  
12 of this Paragraph 8 are fully, finally, and absolutely barred by the applicable statutes of  
13 limitations.

14 b. Optiflex's Acknowledgment of Fairness. Optiflex acknowledges that  
15 this Paragraph 8 was negotiated with County, that the consideration for it is fair and adequate,  
16 and that Optiflex had a fair opportunity to negotiate, accept, reject, modify, or alter it.

17 **9. Waiver of Civil Code Section 1542.** With respect to the exculpation provided  
18 in Paragraph 8, Optiflex waives the benefits of Civil Code Section 1542, which provides:

19 "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
20 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT  
21 THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST  
22 HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

23 \_\_\_\_\_Optiflex Initials \_\_\_\_\_County Initials

24 **10. Indemnification.** Optiflex shall indemnify and hold harmless the County of  
25 Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors,

1 officers, Board of Supervisors, elected and appointed officials, employees, agents and  
2 representatives from any liability, claim, damage or action whatsoever, based or asserted  
3 upon any negligent act or omission of Optiflex, its officers, employees, subcontractors, agents  
4 or representatives arising out of or in any way relating to this Agreement, including but not  
5 limited to property damage, bodily injury, or death. Optiflex shall defend, at its sole cost and  
6 expense, including but not limited to attorney fees, cost of investigation, defense and  
7 settlements or awards, the County of Riverside, its Agencies, Districts, Special Districts and  
8 Departments, their respective directors, officers, Board of Supervisors, elected and appointed  
9 officials, employees, agents and representatives in any such action or claim. With respect to  
10 any action or claim subject to indemnification herein by Optiflex, Optiflex shall, at its sole cost,  
11 have the right to use counsel of its own choice and shall have the right to adjust, settle, or  
12 compromise any such action or claim without the prior consent of County; provided, however,  
13 that any such adjustment, settlement or compromise in no manner whatsoever limits or  
14 circumscribes Optiflex's indemnification of County. Optiflex's obligations hereunder shall be  
15 satisfied when Optiflex has provided to County the appropriate form of dismissal (or similar  
16 document) relieving the County from any liability for the action or claim involved. The specified  
17 insurance limits required in this Agreement shall in no way limit or circumscribe Optiflex's  
18 obligations to indemnify and hold harmless the County.

19 a. In the event there is conflict between this clause and California Civil  
20 Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such  
21 interpretation shall not relieve the Optiflex from indemnifying the County to the fullest extent  
22 allowed by law.

23 b. Optiflex's indemnification obligations shall also apply to any action or  
24 claim regarding actual or alleged intellectual property infringement related to any material or  
25 product provided to County pursuant to this Agreement. In the event of any such action or

1 claim, Optiflex shall provide immediate notice to County of the action or claim. Optiflex may  
2 defend or settle the action or claim as Optiflex deems appropriate; however, Optiflex shall be  
3 required to obtain for County the right to continue to use the material or product (or a similar  
4 non-infringing material or product with the same function) on terms identical to those stated in  
5 this Agreement.

6 c. All applicable indemnification provisions in this Agreement shall remain  
7 in effect following the expiration or termination of this Agreement.

8 **11. Insurance.** Without limiting or diminishing the Optiflex's obligation to  
9 indemnify or hold the County harmless, Optiflex shall procure and maintain or cause to be  
10 procured and maintained, at no cost to the County, the following insurance coverage during  
11 the term of this Agreement:

12 a. **Workers' Compensation.** If the Optiflex has employees as defined by  
13 the State of California, the Optiflex shall maintain statutory Workers' Compensation Insurance  
14 (Coverage A) as prescribed by the laws of the State of California. Policy shall include  
15 Employers' Liability (Coverage B) including Occupational Disease with limits not less than  
16 \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in  
17 favor of the County of Riverside, and, if applicable, to provide a Borrowed Servant/Alternate  
18 Employer Endorsement.

19 b. **Commercial General Liability.** Commercial General Liability insurance  
20 coverage, including but not limited to, premises liability, contractual liability, products and  
21 completed operations liability, personal and advertising injury covering claims which may arise  
22 from or out of Optiflex's performance of its obligations hereunder. Policy shall name all  
23 Agencies, Districts, Special Districts, and Departments of the County of Riverside, their  
24 respective directors, officers, Board of Supervisors, employees, elected or appointed officials,  
25 agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than

1 \$1,000,000 per occurrence combined single limit. If such insurance contains a general  
2 aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the  
3 occurrence limit.

4 c. Vehicle Liability. If Optiflex's vehicles or mobile equipment are used in  
5 the performance of the obligations under this Agreement, then Optiflex shall maintain liability  
6 insurance for all owned, non-owned or hired vehicles so used in an amount not less than  
7 \$1,000,000 per occurrence combined single limit. If such insurance contains a general  
8 aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the  
9 occurrence limit. Policy shall name all Agencies, Districts, Special Districts, and Departments  
10 of the County of Riverside, their respective directors, officers, Board of Supervisors,  
11 employees, elected or appointed officials, agents or representatives as Additional Insureds.

12 d. Professional Liability Insurance. Professional Liability Insurance  
13 providing coverage for the Optiflex's performance of work included within this Agreement, with  
14 a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate.  
15 If Optiflex's Professional Liability Insurance is written on a claims made basis rather than an  
16 occurrence basis, such insurance shall continue through the term of this Agreement and  
17 Optiflex shall purchase at his sole expense either 1) an Extended Reporting Endorsement  
18 (also known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive  
19 date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through  
20 Certificates of Insurance that Optiflex has Maintained continuous coverage with the same or  
21 original insurer. Coverage provided under items; 1), 2) or 3) will continue for a period of five  
22 (5) years beyond the termination of this Agreement.

23 e. General Insurance Provisions - All lines

24 i) Any insurance carrier providing insurance coverage hereunder  
25 shall be admitted to the State of California and have an A M BEST rating of not less than A:

1 VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the  
2 County's Risk Manager waives a requirement for a particular insurer such waiver is only valid  
3 for that specific insurer and only for one policy term.

4 ii) The Optiflex's insurance carrier(s) must declare its insurance  
5 deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed  
6 \$500,000 per occurrence such deductibles and/or retentions shall have the prior written  
7 consent of the County Risk Manager before the commencement of operations under this  
8 Agreement. Upon notification of deductibles or self insured retention's unacceptable to the  
9 County, and at the election of the Country's Risk Manager, Optiflex'S carriers shall either; 1)  
10 reduce or eliminate such deductibles or self-insured retention's as respects this Agreement  
11 with the County, or 2) procure a bond which guarantees payment of losses and related  
12 investigations, claims administration, and defense costs and expenses.

13 iii) Optiflex shall cause Optiflex's insurance carrier(s) to furnish the  
14 County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and  
15 certified original copies of Endorsements effecting coverage as required herein, or 2) if  
16 requested to do so orally or in writing by the County Risk Manager, provide original Certified  
17 copies of policies including all Endorsements and all attachments thereto, showing such  
18 insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall  
19 contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be  
20 given to the County of Riverside prior to any material modification, cancellation, expiration or  
21 reduction in coverage of such insurance. In the event of a material modification, cancellation,  
22 expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the  
23 County of Riverside receives, prior to such effective date, another properly executed original  
24 Certificate of Insurance and original copies of endorsements or certified original policies,  
25 including all endorsements and attachments thereto evidencing coverage's set forth herein

1 and the insurance required herein is in full force and effect. *Optiflex shall not commence*  
2 *operations until the County has been furnished original Certificate (s) of Insurance and*  
3 *certified original copies of endorsements or policies of insurance including all endorsements*  
4 *and any and all other attachments as required in this Section. An individual authorized by the*  
5 *insurance carrier to do so on its behalf shall sign the original endorsements for each policy and*  
6 *the Certificate of Insurance.*

7           iv) It is understood and agreed to by the parties hereto and the  
8 insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and  
9 shall be construed as primary insurance, and the County's insurance and/or deductibles  
10 and/or self-insured retention's or self-insured programs shall not be construed as contributory.

11           v) The County's Reserved Rights--Insurance. If, during the term of  
12 this Agreement or any extension thereof, there is a material change in the scope of services;  
13 or, there is a material change in the equipment to be used in the performance of the scope of  
14 work (such as the use of aircraft or watercraft) the County reserves the right to adjust the types  
15 of insurance required under this Agreement and the monetary limits of liability for the  
16 insurance coverage's currently required herein, if, in the County Risk Manager's reasonable  
17 judgment, the amount or type of insurance carried by the Optiflex has become inadequate.

18           vi) Optiflex shall pass down the insurance obligations contained  
19 herein to all tiers that Optiflex contracts with or working under this Agreement.

20           vii) The insurance requirements contained in this Agreement may be  
21 met with a program(s) of self-insurance acceptable to the County.

22           **12. Americans with Disabilities.** Optiflex warrants and represents the SNF  
23 shall be accessible to and usable by individuals with disabilities in compliance with Title III of  
24 the Americans with Disabilities Act of 1990 and California Title 24, as amended from time to  
25



1 time and regulations issued pursuant thereto and in effect from time to time. Any cost incurred  
2 to cause the SNF to comply with said Act shall be borne by Optiflex.

3 **13. Non-Discrimination.** Optiflex shall not be discriminate in the provision of  
4 services, allocation of benefits, accommodation in facilities, or employment of personnel on the  
5 basis of ethnic group identification, race, religious creed, color, national origin, ancestry,  
6 physical handicap, medical condition, marital status or sex in the performance of this  
7 Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with  
8 the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq),  
9 the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990  
10 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

11 **14. Confidentiality.** The Optiflex shall not use for personal gain or make other  
12 improper use of privileged or confidential information which is acquired in connection with this  
13 Agreement. The term "privileged or confidential information" includes but is not limited to:  
14 unpublished or sensitive technological or scientific information; medical, personnel, or security  
15 records; County information or data which is not subject to public disclosure.

16 a. The Optiflex shall protect from unauthorized disclosure names and other  
17 identifying information concerning persons receiving services pursuant to this Agreement,  
18 except for general statistical information not identifying any person. The Optiflex shall not use  
19 such information for any purpose other than carrying out the Optiflex's obligations under this  
20 Agreement. The Optiflex shall promptly transmit to the County all third party requests for  
21 disclosure of such information. The Optiflex shall not disclose, except as otherwise specifically  
22 permitted by this Agreement or authorized in advance in writing by the County, any such  
23 information to anyone other than the County. For purposes of this paragraph, identity shall  
24 include, but not be limited to, name, identifying number, symbol, or other identifying particular  
25 assigned to the individual, such as finger or voice print or a photograph.

1           b.     The Optiflex is subject to and shall operate in compliance with all  
2 relevant requirements contained in the Health Insurance Portability and Accountability Act of  
3 1996 (HIPAA), Public Law 104-191, enacted August 21, 1996, and the related laws and  
4 regulations promulgated subsequent thereto.

5           **15. Sick Building Syndrome.** Optiflex warrants and represents the SNF shall be  
6 constructed, operated and maintained free of certain hazards, including, but not limited to:  
7 spores, fungus, molds, bacteria, chemicals or fumes or other causes of any hazardous micro-  
8 environments, sometimes known as "Sick Building Syndrome," emanating from or within the  
9 SNF that may potentially cause discomfort, bodily injury, sickness or death. Should it be  
10 determined that remediation is necessary based on a report by a trained investigator, Optiflex  
11 will promptly contract with a qualified and experienced company to safely remove the micro-  
12 environments using remediation guidelines recommended or required by the appropriate  
13 governmental agency. Any cost incurred to cause the SNF to be free of such hazard shall be  
14 borne by Optiflex.

15           **16. Hazardous Substance.** It is the intent of the Parties to construe the term  
16 "Hazardous Substances" in its broadest sense. Hazardous Substances shall be defined as  
17 any product, substance, or waste whose presence, use, manufacture, disposal, transportation,  
18 or release, either by itself or in combination with other materials, is either: (a) potentially  
19 injurious to the public health, safety or welfare, the environment or the Premises; (b) regulated  
20 or monitored by any governmental authority; or (c) a basis for potential liability of County to  
21 any governmental agency or third party under any applicable statute or common law theory.

22           a.     Optiflex acknowledges that Optiflex's use or the Operator's use of the  
23 premises may from time to time require the presence of Hazardous Substances at the  
24 Premises. All such Hazardous Substances located in, at, or on the SNF shall be used, stored,  
25 handled, treated, transported, and disposed of in compliance with all applicable laws.

1           b.     If any claim is ever made against County relating to Hazardous  
2 Substances present at or around the SNF, whether or not such substances are present as of  
3 the Commencement Date, or any such Hazardous Substances are hereafter discovered at the  
4 SNF, all costs of removal incurred by, all liability imposed upon, or damages suffered by  
5 County because of the same shall be borne by Optiflex, and Optiflex hereby indemnifies and  
6 agrees to be responsible for and defend and hold County harmless from and against all such  
7 costs, losses, liabilities and damages, including, without limitation, all third-party claims  
8 (including sums paid in settlement thereof, with or without legal proceedings) for personal  
9 injury or property damage and other claims, actions, administrative proceedings, judgments,  
10 compensatory and punitive damages, lost profits, penalties, fines, costs, losses, attorneys'  
11 fees and expenses (through all levels of proceedings), consultants or experts fees and costs  
12 incurred in enforcing this indemnity. The representation, warranty and indemnity of County  
13 described in this Paragraph shall survive the termination or expiration of this Agreement.

14           **17. Administration.** The County Department of Mental Health Director (or  
15 designee) shall administer this Agreement on behalf of County.

16           **18. Waiver.** Any waiver by County of any breach of any one or more of the terms  
17 of this Agreement shall not be construed to be a waiver of any subsequent or other breach of  
18 the same or of any other term thereof. Failure on the part of the County to require exact, full  
19 and complete compliance with any terms of this Agreement shall not be construed as in any  
20 manner changing the terms hereof, or estopping County from enforcement hereof.

21           **19. Binding on Successors.** The terms and conditions herein contained shall  
22 apply to and bind the heirs, successors in interest, executors, administrators, representatives  
23 and assigns of all the Parties hereto.

1           **20. Severability.** If any provision in this Agreement is held by a court of  
2 competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will  
3 nevertheless continue in full force without being impaired or invalidated in any way.

4           **21. Venue.** Any action at law or in equity brought by either of the Parties hereto for  
5 the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a  
6 court of competent jurisdiction in the County of Riverside, State of California, and the Parties  
7 hereto waive all provisions of law providing for a change of venue in such proceedings to any  
8 other county.

9           **22. Agent for Service of Process.** It is expressly understood and agreed that in  
10 the event Optiflex is not a resident of the State of California or it is an association or  
11 partnership without a member or partner resident of the State of California, or it is a foreign  
12 corporation, then in any such event, Optiflex shall file with Assistant County Executive Officer  
13 of the Economic Development Agency, upon its execution hereof, a designation of a natural  
14 person residing in the State of California, giving his or her name, residence and business  
15 addresses, as its agent for the purpose of service of process in any court action arising out of  
16 or based upon this Agreement, and the delivery to such agent of a copy of any process in any  
17 such action shall constitute valid service upon Optiflex. It is further expressly understood and  
18 agreed that if for any reason service of such process upon such agent is not feasible, then in  
19 such event, Optiflex may be personally served with such process out of this county by any  
20 means permitted by law and that such service shall constitute valid service upon Optiflex. It is  
21 further expressly understood and agreed that Optiflex is amenable to the process so served,  
22 submits to the jurisdiction of the court so obtained and waives any and all objections and  
23 protests thereto.

24           **23. No Joint Venture or Landlord/Tenant Relationship.** This Agreement does  
25 not create a joint venture by and between the County and Optiflex nor does it create a

1 landlord/tenant relationship. The Parties acknowledge that the County shall not be deemed a  
2 tenant of the SNF.

3 **24. Interpretation.** The Parties hereto have negotiated this Agreement at arm's  
4 length and have been advised by their respective attorneys, or if not represented by an  
5 attorney, represent that they had an opportunity to be so represented and no provision  
6 contained herein shall be construed against County solely because it prepared this Agreement  
7 in its executed form.

8 **25. Time of Essence.** Time is of the essence with respect to the performance of  
9 all obligations to be performed or observed by the Parties under this Agreement.

10 **26. Consent.** Whenever Optiflex's or County's consent is required under any  
11 provision of this Agreement, it shall not be unreasonably withheld, conditioned or delayed.

12 **27. Assignment.** Neither this Agreement or any part thereof nor performance  
13 under the Agreement shall be assigned, delegated, or transferred by Optiflex without the prior  
14 written consent of County.

15 **28. Notice.** Except as expressly provided elsewhere in this Agreement, all notices  
16 and other communication required under this Agreement shall be in writing and delivered by:  
17 (a) Certified Mail, postage prepaid, return receipt requested, in the United States mail; or (b)  
18 via an overnight courier that provides written evidence of delivery and addressed to the Party  
19 hereto to whom the same is directed at the addresses set forth below. Either Party hereto  
20 may from time to time change its mailing address by written notice to the other Party.

21 **County's Notification Address:**  
22 County of Riverside  
23 Economic Development Agency  
3403 10<sup>th</sup> Street, Suite 500  
Riverside, California 92501

**Optiflex Notification Address:**  
Optiflex Properties and Development, LLC  
200 East Beverly Blvd., Suite 200  
Montebello, California 90640

24 Copy to:

25 County of Riverside

1 Department of Mental Health  
2 Long Term Care/Crisis Hospital Region  
3 PO Box 7109  
4 Riverside, California 92513  
5 Attn: Regional Program Manager

6 **29. Authority.** If Optiflex is a corporation, general or limited partnership or  
7 individual owner, each individual executing this Agreement on behalf of said corporation,  
8 partnership, or individual represents and warrants that he or she is duly authorized to execute  
9 and deliver this Agreement on behalf of said corporation, in accordance with bylaws of said  
10 corporation, or as a partner or individual is authorized to execute this Agreement and that this  
11 Agreement is binding upon said corporation and/or partnership or individual.

12 **30. Entire Agreement.** This Agreement is intended by the Parties hereto as a final  
13 expression of their understanding with respect to the subject matter hereof and as a complete  
14 and exclusive statement of the terms and conditions thereof and supersedes any and all prior  
15 and contemporaneous agreements and understandings, oral or written, in connection  
16 therewith. Any modifications to the terms of this Agreement must be in writing and signed by  
17 the parties herein.

18 **31. Approval of Supervisors.** Anything to the contrary notwithstanding, this  
19 Agreement shall not be binding or effective until its approval and execution by the Chairman of  
20 the Riverside County Board of Supervisors.

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IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

Dated: \_\_\_\_\_

**Optiflex Properties and Development, LLC, a Delaware limited liability company**

By:  \_\_\_\_\_


By: \_\_\_\_\_

Dated: APR 06 2010


**County of Riverside, a political subdivision of the State of California**

By:  \_\_\_\_\_  
Marion Ashley, Chairman  
Board of Supervisors

**ATTEST:**  
Kecia Harper-Ihem  
Clerk of the Board

By:  \_\_\_\_\_  
Deputy

**APPROVED AS TO FORM:**  
Pamela J. Walls  
County Counsel

By:  \_\_\_\_\_  
Synthia M. Gunzel  
Deputy County Counsel

SG:jw  
01/25/10  
Proj no.  
12.762

EXHIBIT A

INDIGENT (NON-FUNDED) PATIENT REFERRAL LETTER

Crisis/Hospital In-Patient Support Services  
P.O. Box 7109  
Riverside, CA 92513

Date

Facility Name  
Address  
City, State Zip

FAX: 999.999.9999

Dear Program Administrator/Facility Operator:

This letter is a request for your program to accept the placement of, LAST NAME, FIRST NAME. As an indigent (non-funded) patient, this client is being referred to your organization from the Riverside County Department of Mental Health Long Term Care Office. The following additional information is relevant to this patient's placement.

PLACEMENT DATE:       mm/dd/yy  
DOB:                     mm/dd/yy  
SSN:                     999-99-9999

This correspondence requests your organization's/facility's provision of the following specific service and provides authorization for:

**\*\*Reimbursement will be at Medi-Cal rate plus a predetermined patch of \$25 per/day.\*\***

Pursuant to the terms and conditions of the Skilled Nursing Facility Agreement, please provide in a timely manner to the Department of Mental Health Long Term Care Office a monthly summary of all patients referred by the County admitted to the facility. In addition, a summary of itemized charges (Billing Invoice) on no less than a monthly basis shall be submitted to:

COUNTY OF RIVERSIDE  
Department of Mental Health  
Crisis/Hospital In-Patient Support Services  
P.O. Box 7109  
Riverside, CA 92513  
Attn: Joseph Sebastian



DATE  
Page 2

Riverside County Department of Mental Health will reimburse for approved charges allowing you to reimburse your vendors accordingly.

If the client is deemed eligible for Medi-Cal (retroactive to the date of application), the Facility Operator is responsible for billing Medi-Cal retroactive to the date of admission for psychiatric patients who have been referred by the Riverside County Department of Mental admitted with a Medi-cal pending status. We appreciate your cooperation and efforts for retroactive billing to Medi-Cal for this client and within 30 days of receiving payment from Medi-Cal please submit reimbursement to the County. Any issues arising in this specific arrangement by either party needs to be effected by a thirty (30) day notice by one party to the other.

Thank you for your services and placement provided for this client.

Respectfully,

Joe Sebastian  
Crisis/Hospital Regional Manager

JS/pd

1 **SKILLED NURSING FACILITY AGREEMENT - INDIO**

2  
3 This Skilled Nursing Facility Agreement ("Agreement"), entered into on  
4 APR 06 2010, by and between the County of Riverside, on behalf of the Department of  
5 Mental Health, a political subdivision of the State of California ("County"), and Optiflex  
6 Properties and Development, LLC, a Delaware Limited Liability Company, ("Optiflex"). County  
7 and Optiflex are hereinafter collectively referred to as the "Parties" or individually as a "Party."

8  
9 **RECITALS**

10  
11 A. The County of Riverside desires to provide referrals of psychiatric patients for  
12 the occupancy of Special Treatment Programs ("STP") in Skilled Nursing Facilities ("SNF"),  
13 one of which is located on real property known as Assessor's Parcel Number 616-160-039 in  
14 the City of Indio, County of Riverside.

15 B. The County of Riverside desires to contract with a Skilled Nursing Facility  
16 Developer/Operator that would provide facilities which are safe and free from hazards, and in  
17 full compliance with all applicable laws.

18 C. Optiflex Properties and Development, LLC, a Delaware Limited Liability  
19 Company has formed a joint venture with a property owner to develop a Skilled Nursing  
20 Facility west of Cheyenne Road north of Buffalo Trail in the City of Indio.

21 D. The Skilled Nursing Facility will provide facilities for two hundred four (204)  
22 patients. Up to forty nine (49) percent of the beds in the SNF or a maximum of one hundred  
23 (100) beds will be located in the STP ("STP Psychiatric Beds").

24 E. Optiflex Properties and Development, LLC, will contract with a company for the  
25 operations of the Skilled Nursing Facility.

1 F. Parties enter into this Agreement for a great public benefit.

2 NOW THEREFORE, in consideration of the mutual covenants contained herein,  
3 the parties hereto agree as follows:

4  
5 **AGREEMENT**

6 **1. Term.** The Original Term of this Agreement shall be for a period of ten (10)  
7 years commencing upon the date which Optiflex completes and receives a Certificate of  
8 Occupancy ("Commencement Date") on the SNF, unless terminated pursuant to the provisions  
9 hereunder. The Original Term of this Agreement shall expire at midnight on the last day of the  
10 ten (10) year term. In the event the Parties do not extend the Agreement as set forth in  
11 Paragraph Two (2) below, upon expiration of the Original Term or any subsequent extensions,  
12 this Agreement shall become a month to month agreement which may be terminated with  
13 thirty (30) days advance written notice by either party. All indemnification provisions in this  
14 Agreement shall remain in effect following the termination of this Agreement.

15 **2. Options to Extend the Agreement.** The County shall have the option to  
16 extend this Agreement for two (2) additional terms of ten (10) years each. County shall  
17 provide written notice to Optiflex at least ninety (90) days before the expiration of this  
18 Agreement.

19 **3. County's Consideration.** Contingent upon the completion and issuance of  
20 certificate of occupancy for the Indio SNF, County agrees to refer to the SNF for the STP  
21 psychiatric patients for occupancy of fifty (50) of the one hundred (100) STP Psychiatric Beds.  
22 It is the intention of the Parties that the County shall make referrals of patients who would have  
23 been referred to the Indio SNF to another SNF located in Moreno Valley after completion of  
24 the SNF in Moreno Valley. County will guarantee filling fifty (50) of the one hundred (100) STP  
25 Psychiatric Beds ("1-50 STPPB"). County shall refer patients for the fifty (50) STP Psychiatric

1 Beds within ninety (90) days of issuance of the Certificate of Occupancy referenced in  
2 Paragraph One above. In the event that any of the fifty (50) STP Psychiatric Beds become  
3 vacant during the term of this Agreement, County shall reimburse Optiflex for any such vacant  
4 beds, based upon the State of California Medi-Cal standard bed hold rates then in effect at the  
5 time. County will also reimburse Optiflex at the Medi-Cal standard rate for any of the fifty (50)  
6 patients who are indigent. . The County will submit to the Operator a referral letter for all  
7 indigent (non-funded) patients that are referred for admittance, as shown in Exhibit "A",  
8 attached hereto and by this reference incorporated herein. In addition, County will pay twenty-  
9 five dollars (\$25) per day for every psychiatric patient placed in an STP bed for Medicare/Medi-  
10 Cal and indigent patients. This fee will not be due on vacant or bed holds. The County's sole  
11 responsibilities are to provide referrals of psychiatric patients and reimburse Optiflex for any of  
12 the fifty (50) vacant beds or indigent patients in those beds. If County does not need all fifty  
13 (50) beds, County has the right to make these excess beds available to other counties to meet  
14 its guarantee obligations. Optiflex will be responsible for finding other counties/entities or  
15 sources to fill the remaining fifty (50) STP Psychiatric Beds ("51-100 STPPB"). Optiflex will be  
16 solely responsible for all of the remaining SNF beds that are not a part of the STP Psychiatric  
17 Beds.

18 **4. Obligations by Optiflex.**

19 a. The responsibility of constructing, operating, including but not limited to  
20 the operations carried out by the services of an Operator as described below, and maintaining  
21 of the SNF is and will be the sole responsibility of Optiflex. The SNF shall provide skilled  
22 nursing services in this facility provides psychiatric patients]

23 b. Optiflex shall contract separately with a Skilled Nursing Facility Operator  
24 ("Operator") for the Special Treatment Program at the SNF ("STP/SNF") to provide skilled  
25 nursing services ("Services") for patients in the STP/SNF during the term and any extensions

1 of this Agreement. Optiflex shall warrant that the Services of Operator shall be the highest  
2 degree of nursing care in accordance with nursing best business practices in the nursing  
3 industry. Optiflex shall ensure that Operator is in full compliance with all Medi-Cal regulations  
4 and requirements, including, but not limited to, regulations provided within [www.medi-  
5 cal.ca.gov](http://www.medi-cal.ca.gov) California Code of Regulations, Title 22, Division 3, Sections 51516.1, 51341.1, and  
6 51490.1, and California Alcohol and Drug Program Letters 98-18, 98-30, 98-42, 98-49, 98-50,  
7 98-58, 99-17, and 99-27. Optiflex shall ensure that the Operator provides the Services and  
8 operates in compliance with all applicable law including but not limited to laws, rules,  
9 regulations and codes of the State of California including the California Department of Public  
10 Health, and all Federal and local laws, rules, ordinances and codes.

11 c. Optiflex shall contract with an Operator that represents and maintains  
12 that it is skilled in the professional calling necessary to perform all services, duties and  
13 obligations required by this Agreement to fully and adequately provide the services for the  
14 SNF. Optiflex shall require that Operator perform the services and duties in conformance to  
15 and consistent with the standards generally recognized as being employed by professionals in  
16 the same discipline in the State of California. Optiflex shall ensure, represent and warrant to  
17 the County that the Operator has all licenses, permits, qualifications and approvals of  
18 whatever nature are legally required to practice its profession and/or provide the services and  
19 that Operator shall keep all such licenses and approvals in effect during the term of this  
20 Agreement.

21 d. Optiflex shall be responsible for billing, or obligate its contracted  
22 Operator to bill, Medi-Cal retroactive to the date of admission for psychiatric patients who have  
23 been referred by the Riverside County Department of Mental admitted with a Medi-cal pending  
24 status. In the event that County has submitted payment for an indigent patient who later  
25

1 qualified for Medi-cal, reimbursement is due to the County within 30 days of Optiflex or its  
2 Operator receiving payment from Medi-Cal.

3 e. Optiflex shall impose indemnification and insurance obligations in favor  
4 of the County exactly as provided in Paragraphs 10 and 11 on Operator.

5 f. Optiflex shall be responsible for maintaining the grounds of the SNF,  
6 including among other things, outside and inside fixtures, walls, landscaping, and general  
7 housekeeping.

8 **5. County's Right of First Refusal for Vacant Beds.** At any time during the  
9 term of this Agreement any of the 100 STPPB become vacant, County shall have the first right  
10 of refusal to refer patients for occupancy of those beds. Operator shall send written notice of  
11 the number of vacant beds available to County. County shall provide written notice within five  
12 (5) working days of receipt of the notice to indicate whether County will refer patients to fill the  
13 vacancies. If vacancies for any of the 51-100 STPPB are filled by County referrals, County is  
14 not responsible for reimbursing Optiflex whether the patient is indigent or not. At no time will  
15 the County's obligations for the 1-50 STPPB attach to the 51-100 STPPB. In the event County  
16 does not respond within the five day period, the first right of refusal shall lapse and Operator  
17 may fill said beds through other means.

18 **6. Termination by County.** In addition, the County has the right to terminate this  
19 Agreement in any of the following:

20 a. In the event Optiflex does not complete the SNF.

21 b. Without cause upon 30 days written notice at the discretion of the  
22 County of Riverside, Director of Mental Health, or designee, served upon Optiflex stating the  
23 extent and effective date of termination.

24 c. In the event that Optiflex and/or its Operator has been accused and/or  
25 found to be in violation of any County, State, of Federal laws or regulations.

1           d.       Notwithstanding any advanced notice provisions herein, if in the opinion  
2 of the County of Riverside, Director of Mental Health, or designee, Optiflex and/or its Operator  
3 has failed or is failing to provide for the health and safety of the patients served under this  
4 Agreement, the County may terminate this Agreement immediately by written notice.

5           e.       In the event that Optiflex fails to perform any of the terms, conditions, or  
6 obligations under this Agreement.

7           f.       Anytime during the term of this Agreement or extensions, County  
8 reserves the right to direct Optiflex to terminate the contract between Optiflex and the  
9 Operator, for any reason, with sixty (60) days advanced written notice. In so directed, Optiflex  
10 shall terminate the contract with the Operator accordingly. In the event of termination of this  
11 Agreement between County and Optiflex as set forth herein, the Agreement with Operator  
12 shall automatically terminate on the same date and time. Any agreements between Optiflex  
13 and Operator shall have this language incorporated into their contract.

14           **7. Compliance.** Optiflex warrants that the SNF and improvements on and in the  
15 SNF shall comply with all applicable law, including State and Federal Laws, covenants or  
16 restrictions of record, building codes, regulations and ordinances, including all State of  
17 California Department of Public Health and OSHPOD laws, regulations, in effect on the  
18 Commencement Date and during the term of this Agreement. If the SNF does not comply  
19 with this warranty, Optiflex shall promptly after receipt of written notice from County or any  
20 governmental agency having jurisdiction over such matters setting forth the nature and extent  
21 of such non-compliance; rectify the same at Optiflex's sole cost and expense.

22           **8. Exculpation.** To the fullest extent permitted by law, Optiflex, singularly and  
23 collectively to Optiflex and the partners, venturers, trustees, and ancillary trustees of Optiflex  
24 and the Operator with whom Optiflex contract with to operate the SNF, its respective officers,  
25 directors, shareholders, members, parents, subsidiaries, and any other affiliated entities,

1 personal representatives, executors, heirs, assigns, licensees, invites, beneficiaries, agents,  
2 servants, employees, and independent contractors of these persons or entities ("Optiflex  
3 Parties"), on its behalf and on behalf of County, its Agencies, Districts, Special Districts and  
4 Departments, their respective Directors, Officers, Board of Supervisors, elected and appointed  
5 officials, employees, agents and representatives ("County Parties"), waives all claims (in law,  
6 equity, or otherwise) against County Parties, arising out of, knowingly and voluntarily assumes  
7 the risk of, and agrees that County Parties shall not be liable to Optiflex Parties for any of the  
8 following: 1) injury to or death of any person; or 2) loss of, injury or damage to, or destruction  
9 of any tangible or intangible property, including the resulting loss of use, economic losses,  
10 and consequential or resulting damage of any kind from any cause. County Parties shall not  
11 be liable under this section regardless of whether the liability results from any active or passive  
12 act, error, or negligence of any of County Parties; or is based on claims in which liability  
13 without fault or strict liability is imposed or sought to be imposed on any of County Parties.

14 a. Survival of Exculpation. The paragraphs of this Paragraph 8 shall  
15 survive the expiration or earlier termination of this Agreement until all claims within the scope  
16 of this Paragraph 8 are fully, finally, and absolutely barred by the applicable statutes of  
17 limitations.

18 b. Optiflex's Acknowledgment of Fairness. Optiflex acknowledges that  
19 this Paragraph 8 was negotiated with County, that the consideration for it is fair and adequate,  
20 and that Optiflex had a fair opportunity to negotiate, accept, reject, modify, or alter it.

21 **9. Waiver of Civil Code Section 1542.** With respect to the exculpation provided  
22 in Paragraph 8, Optiflex waives the benefits of Civil Code Section 1542, which provides:

23 "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
24 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT  
25 THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST



1 HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

2 \_\_\_\_\_ Optiflex Initials \_\_\_\_\_ County Initials

3 **10. Indemnification.** Optiflex shall indemnify and hold harmless the County of  
4 Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors,  
5 officers, Board of Supervisors, elected and appointed officials, employees, agents and  
6 representatives from any liability, claim, damage or action whatsoever, based or asserted  
7 upon any negligent act or omission of Optiflex, its officers, employees, subcontractors, agents  
8 or representatives arising out of or in any way relating to this Agreement, including but not  
9 limited to property damage, bodily injury, or death. Optiflex shall defend, at its sole cost and  
10 expense, including but not limited to attorney fees, cost of investigation, defense and  
11 settlements or awards, the County of Riverside, its Agencies, Districts, Special Districts and  
12 Departments, their respective directors, officers, Board of Supervisors, elected and appointed  
13 officials, employees, agents and representatives in any such action or claim. With respect to  
14 any action or claim subject to indemnification herein by Optiflex, Optiflex shall, at its sole cost,  
15 have the right to use counsel of its own choice and shall have the right to adjust, settle, or  
16 compromise any such action or claim without the prior consent of County; provided, however,  
17 that any such adjustment, settlement or compromise in no manner whatsoever limits or  
18 circumscribes Optiflex's indemnification of County. Optiflex's obligations hereunder shall be  
19 satisfied when Optiflex has provided to County the appropriate form of dismissal (or similar  
20 document) relieving the County from any liability for the action or claim involved. The specified  
21 insurance limits required in this Agreement shall in no way limit or circumscribe Optiflex's  
22 obligations to indemnify and hold harmless the County.

23 a. In the event there is conflict between this clause and California Civil  
24 Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such  
25

1 interpretation shall not relieve the Optiflex from indemnifying the County to the fullest extent  
2 allowed by law.

3           b.       Optiflex's indemnification obligations shall also apply to any action or  
4 claim regarding actual or alleged intellectual property infringement related to any material or  
5 product provided to County pursuant to this Agreement. In the event of any such action or  
6 claim, Optiflex shall provide immediate notice to County of the action or claim. Optiflex may  
7 defend or settle the action or claim as Optiflex deems appropriate; however, Optiflex shall be  
8 required to obtain for County the right to continue to use the material or product (or a similar  
9 non-infringing material or product with the same function) on terms identical to those stated in  
10 this Agreement.

11           c.       All applicable indemnification provisions in this Agreement shall remain  
12 in effect following the expiration or termination of this Agreement.

13           **11. Insurance.**       Without limiting or diminishing the Optiflex's obligation to  
14 indemnify or hold the County harmless, Optiflex shall procure and maintain or cause to be  
15 procured and maintained, at no cost to the County, the following insurance coverage during  
16 the term of this Agreement:

17           a.       Workers' Compensation.   If the Optiflex has employees as defined by  
18 the State of California, the Optiflex shall maintain statutory Workers' Compensation Insurance  
19 (Coverage A) as prescribed by the laws of the State of California. Policy shall include  
20 Employers' Liability (Coverage B) including Occupational Disease with limits not less than  
21 \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in  
22 favor of the County of Riverside, and, if applicable, to provide a Borrowed Servant/Alternate  
23 Employer Endorsement.

24           b.       Commercial General Liability.   Commercial General Liability insurance  
25 coverage, including but not limited to, premises liability, contractual liability, products and

1 completed operations liability, personal and advertising injury covering claims which may arise  
2 from or out of Optiflex's performance of its obligations hereunder. Policy shall name all  
3 Agencies, Districts, Special Districts, and Departments of the County of Riverside, their  
4 respective directors, officers, Board of Supervisors, employees, elected or appointed officials,  
5 agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than  
6 \$1,000,000 per occurrence combined single limit. If such insurance contains a general  
7 aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the  
8 occurrence limit.

9 c. Vehicle Liability. If Optiflex's vehicles or mobile equipment are used in  
10 the performance of the obligations under this Agreement, then Optiflex shall maintain liability  
11 insurance for all owned, non-owned or hired vehicles so used in an amount not less than  
12 \$1,000,000 per occurrence combined single limit. If such insurance contains a general  
13 aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the  
14 occurrence limit. Policy shall name all Agencies, Districts, Special Districts, and Departments  
15 of the County of Riverside, their respective directors, officers, Board of Supervisors,  
16 employees, elected or appointed officials, agents or representatives as Additional Insureds.

17 d. Professional Liability Insurance. Professional Liability Insurance  
18 providing coverage for the Optiflex's performance of work included within this Agreement, with  
19 a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate.  
20 If Optiflex's Professional Liability Insurance is written on a claims made basis rather than an  
21 occurrence basis, such insurance shall continue through the term of this Agreement and  
22 Optiflex shall purchase at his sole expense either 1) an Extended Reporting Endorsement  
23 (also known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive  
24 date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through  
25 Certificates of Insurance that Optiflex has Maintained continuous coverage with the same or

1 original insurer. Coverage provided under items; 1), 2) or 3) will continue for a period of five  
2 (5) years beyond the termination of this Agreement.

3 e. General Insurance Provisions - All lines

4 i) Any insurance carrier providing insurance coverage hereunder  
5 shall be admitted to the State of California and have an A M BEST rating of not less than A:  
6 VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the  
7 County's Risk Manager waives a requirement for a particular insurer such waiver is only valid  
8 for that specific insurer and only for one policy term.

9 ii) The Optiflex's insurance carrier(s) must declare its insurance  
10 deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed  
11 \$500,000 per occurrence such deductibles and/or retentions shall have the prior written  
12 consent of the County Risk Manager before the commencement of operations under this  
13 Agreement. Upon notification of deductibles or self insured retention's unacceptable to the  
14 County, and at the election of the Country's Risk Manager, Optiflex'S carriers shall either; 1)  
15 reduce or eliminate such deductibles or self-insured retention's as respects this Agreement  
16 with the County, or 2) procure a bond which guarantees payment of losses and related  
17 investigations, claims administration, and defense costs and expenses.

18 iii) Optiflex shall cause Optiflex's insurance carrier(s) to furnish the  
19 County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and  
20 certified original copies of Endorsements effecting coverage as required herein, or 2) if  
21 requested to do so orally or in writing by the County Risk Manager, provide original Certified  
22 copies of policies including all Endorsements and all attachments thereto, showing such  
23 insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall  
24 contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be  
25 given to the County of Riverside prior to any material modification, cancellation, expiration or

1 reduction in coverage of such insurance. In the event of a material modification, cancellation,  
2 expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the  
3 County of Riverside receives, prior to such effective date, another properly executed original  
4 Certificate of Insurance and original copies of endorsements or certified original policies,  
5 including all endorsements and attachments thereto evidencing coverage's set forth herein  
6 and the insurance required herein is in full force and effect. *Optiflex shall not commence*  
7 *operations until the County has been furnished original Certificate (s) of Insurance and*  
8 *certified original copies of endorsements or policies of insurance including all endorsements*  
9 *and any and all other attachments as required in this Section. An individual authorized by the*  
10 *insurance carrier to do so on its behalf shall sign the original endorsements for each policy and*  
11 *the Certificate of Insurance.*

12 iv) It is understood and agreed to by the parties hereto and the  
13 insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and  
14 shall be construed as primary insurance, and the County's insurance and/or deductibles  
15 and/or self-insured retention's or self-insured programs shall not be construed as contributory.

16 v) The County's Reserved Rights--Insurance. If, during the term of  
17 this Agreement or any extension thereof, there is a material change in the scope of services;  
18 or, there is a material change in the equipment to be used in the performance of the scope of  
19 work (such as the use of aircraft or watercraft) the County reserves the right to adjust the types  
20 of insurance required under this Agreement and the monetary limits of liability for the  
21 insurance coverage's currently required herein, if, in the County Risk Manager's reasonable  
22 judgment, the amount or type of insurance carried by the Optiflex has become inadequate.

23 vi) Optiflex shall pass down the insurance obligations contained  
24 herein to all tiers that Optiflex contracts with or working under this Agreement.

25

1                               vii)     The insurance requirements contained in this Agreement may be  
2 met with a program(s) of self-insurance acceptable to the County.

3  
4           **12.     Americans with Disabilities.**           Optiflex warrants and represents the SNF  
5 shall be accessible to and usable by individuals with disabilities in compliance with Title III of  
6 the Americans with Disabilities Act of 1990 and California Title 24, as amended from time to  
7 time and regulations issued pursuant thereto and in effect from time to time. Any cost incurred  
8 to cause the SNF to comply with said Act shall be borne by Optiflex.

9           **13.     Non-Discrimination.**     Optiflex shall not be discriminate in the provision of  
10 services, allocation of benefits, accommodation in facilities, or employment of personnel on the  
11 basis of ethnic group identification, race, religious creed, color, national origin, ancestry,  
12 physical handicap, medical condition, marital status or sex in the performance of this  
13 Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with  
14 the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq),  
15 the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990  
16 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

17           **14.     Confidentiality.**     The Optiflex shall not use for personal gain or make other  
18 improper use of privileged or confidential information which is acquired in connection with this  
19 Agreement. The term "privileged or confidential information" includes but is not limited to:  
20 unpublished or sensitive technological or scientific information; medical, personnel, or security  
21 records; County information or data which is not subject to public disclosure.

22                       a.     The Optiflex shall protect from unauthorized disclosure names and other  
23 identifying information concerning persons receiving services pursuant to this Agreement,  
24 except for general statistical information not identifying any person. The Optiflex shall not use  
25 such information for any purpose other than carrying out the Optiflex's obligations under this

1 Agreement. The Optiflex shall promptly transmit to the County all third party requests for  
2 disclosure of such information. The Optiflex shall not disclose, except as otherwise specifically  
3 permitted by this Agreement or authorized in advance in writing by the County, any such  
4 information to anyone other than the County. For purposes of this paragraph, identity shall  
5 include, but not be limited to, name, identifying number, symbol, or other identifying particular  
6 assigned to the individual, such as finger or voice print or a photograph.

7 b. The Optiflex is subject to and shall operate in compliance with all  
8 relevant requirements contained in the Health Insurance Portability and Accountability Act of  
9 1996 (HIPAA), Public Law 104-191, enacted August 21, 1996, and the related laws and  
10 regulations promulgated subsequent thereto.

11 **15. Sick Building Syndrome.** Optiflex warrants and represents the SNF shall be  
12 constructed, operated and maintained free of certain hazards, including, but not limited to:  
13 spores, fungus, molds, bacteria, chemicals or fumes or other causes of any hazardous micro-  
14 environments, sometimes known as "Sick Building Syndrome," emanating from or within the  
15 SNF that may potentially cause discomfort, bodily injury, sickness or death. Should it be  
16 determined that remediation is necessary based on a report by a trained investigator, Optiflex  
17 will promptly contract with a qualified and experienced company to safely remove the micro-  
18 environments using remediation guidelines recommended or required by the appropriate  
19 governmental agency. Any cost incurred to cause the SNF to be free of such hazard shall be  
20 borne by Optiflex.

21 **16. Hazardous Substance.** It is the intent of the Parties to construe the term  
22 "Hazardous Substances" in its broadest sense. Hazardous Substances shall be defined as  
23 any product, substance, or waste whose presence, use, manufacture, disposal, transportation,  
24 or release, either by itself or in combination with other materials, is either: (a) potentially  
25 injurious to the public health, safety or welfare, the environment or the Premises; (b) regulated

1 or monitored by any governmental authority; or (c) a basis for potential liability of County to  
2 any governmental agency or third party under any applicable statute or common law theory.

3 a. Optiflex acknowledges that Optiflex's use or the Operator's use of the  
4 premises may from time to time require the presence of Hazardous Substances at the  
5 Premises. All such Hazardous Substances located in, at, or on the SNF shall be used, stored,  
6 handled, treated, transported, and disposed of in compliance with all applicable laws.

7 b. If any claim is ever made against County relating to Hazardous  
8 Substances present at or around the SNF, whether or not such substances are present as of  
9 the Commencement Date, or any such Hazardous Substances are hereafter discovered at the  
10 SNF, all costs of removal incurred by, all liability imposed upon, or damages suffered by  
11 County because of the same shall be borne by Optiflex, and Optiflex hereby indemnifies and  
12 agrees to be responsible for and defend and hold County harmless from and against all such  
13 costs, losses, liabilities and damages, including, without limitation, all third-party claims  
14 (including sums paid in settlement thereof, with or without legal proceedings) for personal  
15 injury or property damage and other claims, actions, administrative proceedings, judgments,  
16 compensatory and punitive damages, lost profits, penalties, fines, costs, losses, attorneys'  
17 fees and expenses (through all levels of proceedings), consultants or experts fees and costs  
18 incurred in enforcing this indemnity. The representation, warranty and indemnity of County  
19 described in this Paragraph shall survive the termination or expiration of this Agreement.

20 **17. Administration.** The County Department of Mental Health Director (or  
21 designee) shall administer this Agreement on behalf of County.

22 **18. Waiver.** Any waiver by County of any breach of any one or more of the terms  
23 of this Agreement shall not be construed to be a waiver of any subsequent or other breach of  
24 the same or of any other term thereof. Failure on the part of the County to require exact, full  
25



1 and complete compliance with any terms of this Agreement shall not be construed as in any  
2 manner changing the terms hereof, or estopping County from enforcement hereof.

3 ///

4 ///

5 **19. Binding on Successors.** The terms and conditions herein contained shall  
6 apply to and bind the heirs, successors in interest, executors, administrators, representatives  
7 and assigns of all the Parties hereto.

8 **20. Severability.** If any provision in this Agreement is held by a court of  
9 competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will  
10 nevertheless continue in full force without being impaired or invalidated in any way.

11 **21. Venue.** Any action at law or in equity brought by either of the Parties hereto for  
12 the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a  
13 court of competent jurisdiction in the County of Riverside, State of California, and the Parties  
14 hereto waive all provisions of law providing for a change of venue in such proceedings to any  
15 other county.

16 **22. Agent for Service of Process.** It is expressly understood and agreed that in  
17 the event Optiflex is not a resident of the State of California or it is an association or  
18 partnership without a member or partner resident of the State of California, or it is a foreign  
19 corporation, then in any such event, Optiflex shall file with Assistant County Executive Officer  
20 of the Economic Development Agency, upon its execution hereof, a designation of a natural  
21 person residing in the State of California, giving his or her name, residence and business  
22 addresses, as its agent for the purpose of service of process in any court action arising out of  
23 or based upon this Agreement, and the delivery to such agent of a copy of any process in any  
24 such action shall constitute valid service upon Optiflex. It is further expressly understood and  
25 agreed that if for any reason service of such process upon such agent is not feasible, then in

1 such event, Optiflex may be personally served with such process out of this county by any  
2 means permitted by law and that such service shall constitute valid service upon Optiflex. It is  
3 further expressly understood and agreed that Optiflex is amenable to the process so served,  
4 submits to the jurisdiction of the court so obtained and waives any and all objections and  
5 protests thereto.

6 **23. No Joint Venture or Landlord/Tenant Relationship.** This Agreement does  
7 not create a joint venture by and between the County and Optiflex nor does it create a  
8 landlord/tenant relationship. The Parties acknowledge that the County shall not be deemed a  
9 tenant of the SNF.

10 **24. Interpretation.** The Parties hereto have negotiated this Agreement at arm's  
11 length and have been advised by their respective attorneys, or if not represented by an  
12 attorney, represent that they had an opportunity to be so represented and no provision  
13 contained herein shall be construed against County solely because it prepared this Agreement  
14 in its executed form.

15 **25. Time of Essence.** Time is of the essence with respect to the performance of  
16 all obligations to be performed or observed by the Parties under this Agreement.

17 **26. Consent.** Whenever Optiflex's or County's consent is required under any  
18 provision of this Agreement, it shall not be unreasonably withheld, conditioned or delayed.

19 **27. Assignment.** Neither this Agreement or any part thereof nor performance  
20 under the Agreement shall be assigned, delegated, or transferred by Optiflex without the prior  
21 written consent of County.

22 **28. Notice.** Except as expressly provided elsewhere in this Agreement, all notices  
23 and other communication required under this Agreement shall be in writing and delivered by:  
24 (a) Certified Mail, postage prepaid, return receipt requested, in the United States mail; or (b)  
25 via an overnight courier that provides written evidence of delivery and addressed to the Party

1 hereto to whom the same is directed at the addresses set forth below. Either Party hereto  
2 may from time to time change its mailing address by written notice to the other Party.

3  
4 **County's Notification Address:**  
5 County of Riverside  
6 Economic Development Agency  
7 3403 10<sup>th</sup> Street, Suite 500  
8 Riverside, California 92501

**Optiflex Notification Address:**  
Optiflex Properties and Development, LLC  
200 East Beverly Blvd., Suite 200  
Montebello, California 90640

7 Copy to:  
8 County of Riverside  
9 Department of Mental Health  
10 Long Term Care/Crisis Hospital Region  
11 PO Box 7109  
12 Riverside, California 92513  
13 Attn: Regional Program Manager

14 **29. Authority.** If Optiflex is a corporation, general or limited partnership or  
15 individual owner, each individual executing this Agreement on behalf of said corporation,  
16 partnership, or individual represents and warrants that he or she is duly authorized to execute  
17 and deliver this Agreement on behalf of said corporation, in accordance with bylaws of said  
18 corporation, or as a partner or individual is authorized to execute this Agreement and that this  
19 Agreement is binding upon said corporation and/or partnership or individual.

20 **30. Entire Agreement.** This Agreement is intended by the Parties hereto as a final  
21 expression of their understanding with respect to the subject matter hereof and as a complete  
22 and exclusive statement of the terms and conditions thereof and supersedes any and all prior  
23 and contemporaneous agreements and understandings, oral or written, in connection  
24 therewith. Any modifications to the terms of this Agreement must be in writing and signed by  
25 the parties herein.

1           **31. Approval of Supervisors.** Anything to the contrary notwithstanding, this  
2 Agreement shall not be binding or effective until its approval and execution by the Chairman of  
3 the Riverside County Board of Supervisors.

4  
5 ///  
6 ///

7 IN WITNESS WHEREOF, the parties hereto have caused their duly authorized  
8 representatives to execute this Agreement.

9 Dated: \_\_\_\_\_

**Optiflex Properties and Development, LLC, a  
Delaware limited liability company**

10 By:  \_\_\_\_\_


11 By: \_\_\_\_\_

12  
13 Dated: APR 06 2010

**County of Riverside, a political subdivision of  
the State of California**

14  
15 By:  \_\_\_\_\_  
16 Marion Ashley, Chairman  
17 Board of Supervisors

18 **ATTEST:**  
19 Kecia Harper-Ihem  
20 Clerk of the Board

21 By:  \_\_\_\_\_  
22 Deputy

23 **APPROVED AS TO FORM:**  
24 Pamela J. Walls  
25 County Counsel

4 By:  \_\_\_\_\_  
5 Synthia M. Gunzel  
Deputy County Counsel

SG:jw  
01/25/10  
Proj no.  
13.066

EXHIBIT A

INDIGENT (NON-FUNDED) PATIENT REFERRAL LETTER

Crisis/Hospital In-Patient Support Services  
P.O. Box 7109  
Riverside, CA 92513

Date

Facility Name  
Address  
City, State Zip

FAX: 999.999.9999

Dear Program Administrator/Facility Operator:

This letter is a request for your program to accept the placement of, LAST NAME, FIRST NAME. As an indigent (non-funded) patient, this client is being referred to your organization from the Riverside County Department of Mental Health Long Term Care Office. The following additional information is relevant to this patient's placement.

PLACEMENT DATE:       mm/dd/yy  
DOB:                       mm/dd/yy  
SSN:                       999-99-9999

This correspondence requests your organization's/facility's provision of the following specific service and provides authorization for:

**\*\*Reimbursement will be at Medi-Cal rate plus a predetermined patch of \$25 per/day.\*\***

Pursuant to the terms and conditions of the Skilled Nursing Facility Agreement, please provide in a timely manner to the Department of Mental Health Long Term Care Office a monthly summary of all patients referred by the County admitted to the facility. In addition, a summary of itemized charges (Billing Invoice) on no less than a monthly basis shall be submitted to:

COUNTY OF RIVERSIDE  
Department of Mental Health  
Crisis/Hospital In-Patient Support Services  
P.O. Box 7109  
Riverside, CA 92513  
Attn: Joseph Sebastian

DATE  
Page 2

Riverside County Department of Mental Health will reimburse for approved charges allowing you to reimburse your vendors accordingly.

If the client is deemed eligible for Medi-Cal (retroactive to the date of application), the Facility Operator is responsible for billing Medi-Cal retroactive to the date of admission for psychiatric patients who have been referred by the Riverside County Department of Mental admitted with a Medi-cal pending status. We appreciate your cooperation and efforts for retroactive billing to Medi-Cal for this client and within 30 days of receiving payment from Medi-Cal please submit reimbursement to the County. Any issues arising in this specific arrangement by either party needs to be effected by a thirty (30) day notice by one party to the other.

Thank you for your services and placement provided for this client.

Respectfully,

Joe Sebastian  
Crisis/Hospital Regional Manager

JS/pd