

**Letter of Certification
For
Deferred Entry of Judgment Program Services**

NAME located at **ADDRESS**, has been certified as a Deferred Entry of Judgment Program Provider, (hereinafter referred to as "DEJ Program") by San Bernardino County, Department of Behavioral Health, Substance Use Disorder and Recovery Services Administrator (hereinafter referred to as "County").

Duration and Termination

This Letter of Certification (hereinafter referred to as "Agreement"), between the DEJ Program and the County shall commence on **October 1, 2022**, and shall continue without further action until **September 30, 2023**, with the possibility of one additional one-year extension, unless expressly terminated.

Either the DEJ Program or the County may terminate this Agreement at any time for any reason or no reason by serving a thirty (30) days' written notice upon the other party. This Agreement may be terminated at any time by the mutual written concurrence of both the DEJ Program and the County.

In the event of termination of this Agreement, immediate plans shall be made to transfer or refer all participants served under this Agreement to other County certified DEJ Program Providers. Such plans shall be coordinated by the County.

Upon termination of this Agreement, the DEJ Program shall deliver or make available to the County all data, reports, records and other such information and materials that may have been accumulated by the DEJ Program under this Agreement, whether completed, partially completed, or in progress within fourteen (14) calendar days of said termination date.

1. If the DEJ Program shall cease operation of its business, the County shall store the participant records for all DEJ Program participants.
2. The DEJ Program is responsible for boxing, indexing, and delivery of any and all records that will be stored by the County Medical Records Department.
3. Should the DEJ Program fail to relinquish the participant records to the County, the County shall report the DEJ Program and its qualified professional personnel to the applicable licensing or certifying board(s).

DEJ Program Monitoring

This Agreement is conditioned upon the County possessing the right to review and monitor the DEJ Program and facility. DEJ Program reviews may include, but are not limited to:

1. Monitoring to ensure compliance with San Bernardino County, Department of Behavioral Health, Substance Use Disorder and Recovery Services, Deferred Entry of Judgment Program Standards.
2. Monitoring to ensure that DEJ Program does not utilize other funds administered by the State of California, Department of Health Care Services (DHCS) for program operations.
3. Monitoring to ensure that DEJ Program does not utilize participant fees for purposes other than DEJ Program activities, with the exception of allowable profit or surplus.
4. Monitoring to ensure that DEJ Program maintains complete financial records in accordance with generally acceptable accounting principles.

5. Monitoring to ensure that DEJ Program makes provisions for participants who cannot afford to pay program participation fees.
6. Monitoring to ensure that participant fees are refunded timely when the participant pays any program fee in advance for services not rendered.

County monitoring may include requests for financial records to include, but not limited to ledgers, books, vouchers, time sheets, payrolls, and other fiscal data.

County monitoring shall be conducted at any reasonable time, including normal business hours and/or those hours of service provided for DEJ participants at the DEJ Program location.

Personnel

DEJ Program shall furnish such qualified professional personnel as prescribed by Title 9 of the California Code of Regulations as are required for the types of services DEJ Program shall perform, which services are described in the San Bernardino County, Department of Behavioral Health, Substance Use Disorder and Recovery Services, Deferred Entry of Judgment Program Standards.

DEJ Program agrees to provide or has already provided information on former San Bernardino County Administrative Officials (as defined below) who are employed by or represent DEJ Program. The information provided includes a list of former County Administrative Officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of DEJ Program. For purposes of this provision, "County Administrative Official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

Participant Fees

DEJ Program shall charge only those participant fees and additional fees in the amounts set forth in the County approved DEJ Program Contracts and Fee Payment Documents.

The DEJ Program shall refund to the participant any program fee paid in advance for services the participant did not receive.

County Monitoring Fees

The County shall be compensated for administration and monitoring of DEJ Program at the rate of:

- \$43.00 or as established by the Board of Supervisors, for each DEJ participant enrolled in the DEJ Program

The administrative and monitoring fees will remain in effect for the duration of this Agreement unless modified upon a 30 day written notification from the County to reflect applicable changes in law and/or regulations.

The administration and monitoring fee shall be remitted to the County no later than the fifteenth (15th) calendar day of each month following the enrollment/report month.

Required Reports/Special Reports

“Required reports” are due from the DEJ Program by the fifteenth (15th) calendar day of each month following the reporting month. Required reports presently include, but are not limited to, Monthly Data Reports (MDR’s). Other required reports may include reports deemed necessary by the County, and are incorporated by reference herein.

“Special reports” shall be due from the DEJ Program to the County no later than thirty (30) days from the issuance of any written memoranda by the County to the DEJ Program. Special reports include, but are not limited to, Corrective Action Plans (CAP), annual cost reports, and other information deemed necessary by the County at its sole discretion, and are incorporated by reference herein.

The County and DEJ Program agree that the receipt date shall be conclusively established by the “date stamp” affixed by the designated employee(s) of the County.

Indemnification and Insurance

Indemnification – The parties to this Agreement acknowledge that the DEJ Program is an independent contractor, and this Agreement shall not be construed in any manner as to change the DEJ Program’s status as an independent contractor. The DEJ Program agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The DEJ Program’s indemnification obligation applies to the County’s “active” as well as “passive” negligence but does not apply to the County’s “sole negligence” or “willful misconduct” within the meaning of Civil Code Section 2782.

Additional Insured – All policies, except for Worker’s Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insured’s with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

Waiver of Subrogation Rights – The DEJ Program shall require the carriers of required coverage to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the DEJ Program and DEJ Program’s employees or agents from waiving the right of subrogation prior to a loss or claim. The DEJ Program hereby waives all rights to subrogation against the County.

Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

Severability of Interests – The DEJ Program agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that

preclude coverage for suits between the DEJ Program and the County or between the County and any other insured or additional insured under the policy.

Proof of Coverage – DEJ Program shall furnish Certificates of Insurance to the County Department administering the Agreement evidencing the insurance coverage at the time the agreement is executed. Additional endorsements, as required, shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and DEJ Program shall maintain such insurance from the time DEJ Program commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of Agreement, the DEJ Program shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of policies and endorsements immediately upon request.

Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum “Best” Insurance Guide rating of “A-VII”.

Deductibles and Self-Insured Retention – Any and all deductibles or self-insured retentions in excess of ten thousand dollars (\$10,000) shall be declared to and approved by Risk Management.

Failure to Procure Coverage – In the event that any policy of insurance required under this agreement does not comply with the requirements, is not procured, or is cancelled and not replaced, the County has the right but not the obligation or duty to cancel the agreement or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the DEJ Program.

Insurance Review – Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interest of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County’s risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. DEJ Program agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

Insurance Specifications – The DEJ Program agrees to provide insurance set forth in accordance with the requirements herein. If the DEJ Program uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the DEJ Program agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the DEJ Program shall secure and maintain throughout the Agreement term the following types of insurance with limits as shown:

1. Worker's Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with two hundred and fifty thousand dollars (\$250,000) limit covering all persons including volunteers providing services on behalf of the DEJ Program and all risks to such persons under this Agreement.

If the DEJ Program has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Worker's Compensation coverage will be suspended by the County's Director of Risk Management.

With respect to DEJ Programs that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Worker's Compensation insurance.

2. Commercial/General Liability Insurance – The DEJ Program shall carry General Liability Insurance covering all operations performed by or on behalf of the DEJ Program providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
 - a. Personal injury
 - b. Contractual liability
 - c. Two million dollars (\$2,000,000) general aggregate limit

3. Automobile Liability Insurance – Primary insurance coverage shall be written on Insurance Services Office (ISO) Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (broadest category for any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the DEJ Program is transporting one or more non-employee passengers in performance of the Agreement services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the DEJ Program owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

4. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.
5. Cyber Liability Insurance – Cyber Liability Insurance with limits of not less than one million dollars (\$1,000,000) for each occurrence or event with an annual aggregate of two million

dollars (\$2,000,000) covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

6. Professional Services Requirements

a. Professional Liability – Professional Liability Insurance with limits of not less than one million dollars (\$1,000,000) per claim or occurrence and two million dollar (\$2,000,000) aggregate limits

or

b. Errors and Omissions Liability Insurance – Errors and Omissions Liability Insurance with limits of not less than one million dollar (\$1,000,000) and two million dollar (\$2,000,000) aggregate limits

7. Abuse/Molestation Insurance – The Contractor shall have abuse or molestation insurance providing coverage for all employees for the actual or threatened abuse or molestation by anyone of any person in the care, custody, or control of any insured, including negligent employment, investigation, and supervision. The policy shall provide coverage for both defense and indemnity with liability limits of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.

8. If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the start of Agreement work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after Agreement completion.

9. The coverage described above is not required for contractors or consultants providing services which are not relied upon by County departments for decision making. These would include trainers or instructors, expert witnesses, statisticians, etc.

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Licensing and Certification

DEJ Program shall obtain and maintain during the term of this Agreement all appropriate licenses, permits, and certificates required by all applicable Local, State and/or Federal laws, regulations, and guidelines for the operation of its facility and for the provision of services.

Laws and Regulations

DEJ Program agrees to comply with all relevant Federal and State laws and regulations inclusive of future revisions and comply with all applicable provisions of:

- The San Bernardino County, Department of Behavioral Health, Substance Use Disorder and Recovery Services, Deferred Entry of Judgment Program Standards.

Privacy and Security

Covered Entity: These include 1) health care providers, 2) health plans, and 3) health care clearing houses that transmit any health information in electronic form in connection with a transaction covered by the Privacy and Security Rules. DBH is the covered entity in this agreement.

DBH General Responsibilities

Pursuant to HIPAA and 42 C.F.R. Part 2, DBH has implemented administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability PHI transmitted or maintained in any form or medium.

The Drug Medi-Cal Organized Delivery System (DMC-ODS) is a component of the 1115 demonstration project implemented by the California Department of Health Care Services (DHCS). The DMC-ODS provides a continuum of care, enables more local control and accountability, provides greater administrative oversight, and creates utilization controls to improve care and efficient use of resources. It implements evidenced based practices in substance use disorder treatment, coordinates with other systems of care, and provides the patient with access to the care and system interaction needed in order to achieve sustainable recovery. The DMC-ODS demonstrates how organized substance use disorder care increases the success of DMC patients while decreasing other system health care costs.

DEJ Program Responsibilities

If the DEJ Program happens to obtain PHI and becomes aware of a potential breach of this information, DEJ program will report to DBH any unauthorized use, access or disclosure of unsecured PHI or PII no later than one (1) business day upon the discovery of a potential breach.

Upon discovery of the potential breach, DEJ program shall complete the following actions:

- A. Provide DBH with the following information, including, but not limited to:
 - 1) Date the potential breach occurred;
 - 2) Date the potential breach was discovered;
 - 3) Number of staff, employees, subcontractors, agents, or other third parties, and the titles of each person allegedly involved;
 - 4) Number of potentially affected patients/clients; and
 - 5) Description of how the potential breach allegedly occurred.

Suspension of Participant Referrals

County may initiate steps leading to suspension of referrals to DEJ Program for failure to comply with the terms and conditions of this Agreement including, but not limited to, the following:

- A. Failure to notify the Court of applicable jurisdiction and/or Probation Department of a participant's enrollment or termination;
- B. Failure to permit indigent participants to participate in DEJ Program due to indigence;
- C. Collecting participant fee that exceeds the County-approved maximum fee;

- D. Failure to maintain the minimum requirements of a DEJ facility as specified in the San Bernardino County, Department of Behavioral Health, Substance Use Disorder and Recovery Services, Deferred Entry of Judgment Program Standards;
- E. Failure to notify and seek approval from the County of a change in location, substantial change or modifications to the physical facility and/or substantial change in the DEJ Program's structure and services ("Substantial change" shall mean any deviation from the DEJ Program Standards of San Bernardino County, and includes a change in address from the location of the DEJ Program as specified in the Agreement);
- F. The death of the DEJ Program's owner and license holder, or any change in the ownership of the DEJ Program, including sales or transfers of ownership of the Program Provider, unless the transfer of ownership applies to the transfer of stock when the DEJ Program is owned by and certified as a corporation and when the transfer of stock does not constitute a majority and/or change in ownership;
- G. Failure to advise and seek approval from the County for a change in Program Administrator;
- H. Actual and/or constructive abandonment of the DEJ Program ("constructive abandonment" shall include insolvency, eviction, or seizure of assets or equipment resulting in the failure to provide alcohol and/or drug services to participants);
- I. Failure to correct deficiencies as specified in the San Bernardino County, Department of Behavioral Health, Substance Use Disorder and Recovery Services, Deferred Entry of Judgment Program Standards;
- J. Failure to attain prior authorization and approval before changing and utilizing a required County Contract or Form.

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Bonding

The DEJ Program shall obtain and maintain at all times during the term of this contract a blanket fidelity bond in an amount not less than five thousand dollars (\$5,000) per claim or occurrence with an admitted carrier in the State of California to cover potential losses due to employee dishonesty. The DEJ Program shall furnish the County with a copy of the bond certificate within thirty (30) days of the effective date of this contract. The DEJ Program shall notify the County in writing of any change in the vendors' bond coverage within twenty-four (24) hours of such change.

A copy of the bond certificate shall be sent to:

San Bernardino County Department of Behavioral Health
Substance Use Disorder and Recovery Services Administration
658 E. Brier Dr., Suite 250
San Bernardino, CA 92408
Attn: Substance Use Disorder and Recovery Services
DUI/DEJ Program Coordinator

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

County Certification No. _____

COUNTY OF SAN BERNARDINO
DEPARTMENT OF BEHAVIORAL HEALTH
SUBSTANCE USE DISORDER AND RECOVERY
SERVICES ADMINISTRATION

(Print or type name of Corporation, Company,
Contractor, etc.)

By: _____
(Authorized Signature - Sign in Blue Ink)

By: _____
(Authorized Signature - Sign in
Blue Ink)

Name: Georgina Yoshioka
(Print or Type Name of Person Signing)

Name: _____
(Print or Type Name of Person Signing)

Title: Interim Director
(Print or Type)

Title: _____
(Print or Type)

Date: _____

Date: _____

Address: 303 East Vanderbilt Way
San Bernardino, CA 92415

Address: _____
