

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Behavioral Health and Recovery Services

BOARD AGENDA # *B-3

Urgent

Routine

AGENDA DATE June 30, 2009

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval of the Agreement with Sierra Vista Child and Family Services for First Step Day Care Habilitative and Outpatient Perinatal Services

STAFF RECOMMENDATIONS:

1. Approve the two-month agreement with Sierra Vista Child and Family Services for First Step day care habilitative and outpatient perinatal services.
2. Authorize the Behavioral Health Director, or her designee, to sign the agreement included in this agenda item.

FISCAL IMPACT:

The budget submitted by Behavioral Health and Recovery Services for Fiscal Year 2009-2010 includes funding in the amount of \$152,907 for the agreement with Sierra Vista Child and Family Services. There is no additional impact to the County General Fund.

BOARD ACTION AS FOLLOWS:

No. 2009-434

On motion of Supervisor O'Brien, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

On May 19, 2009 after a public hearing, the Board of Supervisors approved the Behavioral Health and Recovery Services' department-wide restructuring plan that included service level changes in outpatient psychiatric and substance abuse services. One of the approved service level changes was the termination of residential perinatal services to pregnant and post-partum women. The residential program has been funded by the Community Services Agency StanWORKs and Child Welfare allocations, along with Federal substance abuse block grant funding from Behavioral Health and Recovery Services. Both agencies recognize the value to the community that the residential program provided; however, current funding is not sufficient to continue to support the residential program.

Since Stanislaus Recovery Center opened in 2001, the First Step Residential Perinatal program has been operated at the Center through a collaborative effort of Sierra Vista Child and Family Services and the Center for Human Services. As the lead agency, Sierra Vista Child and Family Services has submitted a proposal to offer outpatient services to the same target population, in order to meet a demonstrated need in the community. However, the State budget for Fiscal Year 2009-2010 has not been finalized, so final allocations are not yet known. It is requested that the agreement be approved for two months to allow Behavioral Health and Recovery Services and Community Services Agency to negotiate the program proposal and terms, while awaiting word on allocations in the State Budget.

It is essential that the agreement in this agenda item be fully executed by July 1, 2009 to avoid disruption of critical services to the residents of Stanislaus County.

POLICY ISSUE:

Approval of this agenda item supports the Board of Supervisors' priorities of *A healthy community*, *Effective Partnerships* and the *Efficient delivery of public services* by ensuring the most cost effective method of providing mental health and alcohol and other drug services through partnerships with community providers.

STAFFING IMPACT:

There is no staffing impact associated with this agenda item.



PROVIDER AGREEMENT

BETWEEN

STANISLAUS COUNTY

BEHAVIORIAL HEALTH AND RECOVERY SERVICES

AND

**SIERRA VISTA CHILD AND FAMILY SERVICES/
CENTER FOR HUMAN SERVICES**

**FIRST STEP
PERINATAL TREATMENT SERVICES**

JULY 1, 2009 – August 31, 2009

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1. RECITALS.....	1
2. SERVICES.....	1
3. NONDISCRIMINATION.....	1
4. BILLING AND PAYMENT.....	2
6. SMOKING PROHIBITION REQUIREMENTS.....	2
7. CULTURAL COMPETENCY.....	2
8. QUALITY MANAGEMENT.....	3
9. ORGANIZATIONAL COMPLIANCE PLAN.....	3
10. PATIENTS' RIGHTS AND PROBLEM RESOLUTION.....	3
11. CONFIDENTIALITY AND INFORMATION SECURITY.....	4
12. MONITORING/REVIEW ASSISTANCE.....	4
13. MEDI-CAL CERTIFICATION.....	5
14. RECORDS.....	6
15. REPORTING.....	7
16. INVENTORY.....	8
17. PERSONNEL.....	8
18. CODE OF ETHICS.....	9
19. WORKPLACE REQUIREMENTS.....	10
20. ACKNOWLEDGEMENT.....	10
21. FINANCIAL RELATIONSHIPS.....	10
22. REQUIRED LICENSES, CERTIFICATES AND PERMITS.....	11
23. INDEMNIFICATION.....	11
24. INSURANCE.....	12
25. NOTICE.....	15
26. CONFLICTS.....	15
27. SEVERABILITY.....	15
28. AMENDMENT.....	15
29. ENTIRE AGREEMENT.....	16
30. RELATIONSHIP OF PARTIES.....	16
31. REFERENCES TO LAWS AND RULES.....	16
32. ASSIGNMENT.....	16
33. AVAILABILITY OF FUNDS.....	16
34. WAIVER OF DEFAULT.....	16
35. VENUE.....	17
36. TERM.....	17
SIGNATURE PAGE.....	18
EXHIBIT A - SERVICES	
EXHIBIT B - PROGRAM SCHEDULE	
EXHIBIT C - CONFIDENTIALITY AND INFORMATION SECURITY PROVISIONS	
EXHIBIT D - STATEMENT OF COMPLIANCE	

AGREEMENT

Perinatal Treatment Services

This Agreement is made and entered into in the City of Modesto, State of California, by and between the **County of Stanislaus**, through **Behavioral Health and Recovery Services**, hereinafter referred to as “**COUNTY**”, and **Sierra Vista Child and Family Services**, a California Non-profit Corporation with its principal place of business identified in Section 25, hereinafter referred to as “**CONTRACTOR**”, in consideration of the premises, and the mutual promises, covenants, terms, and conditions hereinafter contained.

WHEREAS, COUNTY, through its Behavioral Health and Recovery Services, wishes to provide a perinatal treatment program for women; and,

WHEREAS, CONTRACTOR in collaboration with the Center for Human Services, wishes to partner with COUNTY as a provider of perinatal treatment services under the provisions of Sections 11991.6 and 11983.6, Division 10.5 of the Health and Safety Code.

WHEREAS, COUNTY requires and CONTRACTOR is able to perform services that integrate community collaboration, cultural competence, and be client/family driven, with a focus on wellness, recovery and resilience.

NOW THEREFORE, the parties hereby agree as follows:

1. RECITALS

The recitals set forth above are a material part of this Agreement.

2. SERVICES

Services required under this Agreement are described in the attached exhibit(s).

3. NONDISCRIMINATION

3.1 Consistent with the requirements of applicable Federal or State Law, the CONTRACTOR shall not engage in any unlawful discriminatory practices in the admission of clients, assignment of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, religion, marital status, national origin, age (over 40), sexual preference, or mental or physical disability (including individuals with AIDS or those with a record of or who are regarded as having a substantially limiting impairment), or medical condition (cancer-related), pregnancy related condition, or political affiliation or belief. This policy shall be in writing, in English and Spanish. It shall be posted in all public areas.

3.2 All participants participating in Welfare to Work activities must be eligible for TANF as determined by Community Services Agency.

4. BILLING AND PAYMENT

4.1 Payment information is identified in the attached exhibit(s).

4.2 CONTRACTOR shall submit an invoice to COUNTY's Contract Manager, 800 Scenic Drive, Modesto, California 95350, on a monthly basis. CONTRACTOR shall make a good faith effort to submit claims by the tenth of each month.

4.3 Upon request by COUNTY, CONTRACTOR shall repay COUNTY for audit exceptions or denials, as a function of BHRS, State, or Federal Medi-Cal audits which occur within the next five (5) fiscal years for the applicable fiscal year, within thirty (30) days from date of request, unless otherwise negotiated with COUNTY.

4.4 Both parties acknowledge that the State of California will continue to seek State or Federal revenue enhancements throughout the term of this Agreement. If a specific strategy adopted by the State affects the funding that COUNTY uses to support this Agreement, the parties agree to re-negotiate the applicable terms.

4.5 Final payment for services provided under the terms of this Agreement may be withheld pending fiscal reconciliation.

5. DRUG FREE WORKPLACE

CONTRACTOR shall comply with Health and Safety Code Section 8350 et seq. also known as Drug-Free Workplace Act of 1990. Every person or organization awarded a contract for services shall certify to the COUNTY that it will provide a drug-free workplace in accordance with Health and Safety Code Section 8355.

6. SMOKING PROHIBITION REQUIREMENTS

CONTRACTOR shall comply with Public Law 103-227, also known as the Pro-Children Act of 1994 (20 USC Section 6081, et seq.), and with California Labor Code Section 6404.5, the California Smoke-Free Workplace Law, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for and used routinely or regularly for the provision of health, day care, early childhood development services, education, or library service to children under the age of eighteen (18).

7. CULTURAL COMPETENCY

7.1 CONTRACTOR shall comply with the provisions of the CONTRACTOR's Cultural Competence Plan previously submitted.

7.2 CONTRACTOR shall comply with any changes to the Cultural Competence Plan

requirements and standards for cultural and linguistic competence established by COUNTY to be effective during the term of the Agreement. CONTRACTOR shall provide and update their Cultural Competence Plan as required by Title 9, CCR, Section 1810.410(d) in a format to be determined by the State.

7.3 CONTRACTOR shall ensure that cultural competency is integrated into the provision of services. This shall be reviewed during contract monitoring meetings.

7.4 CONTRACTOR's staff are encouraged to participate in the COUNTY's Cultural Competence Oversight Committee.

7.5 CONTRACTOR's staff shall attend COUNTY's Clinical and Administrative Cultural Competency Standards training.

8. QUALITY MANAGEMENT

8.1 CONTRACTOR shall be in full compliance with COUNTY's Quality Management Plan and Risk Management Program. COUNTY shall have access to, and conduct audits and reviews of, records, policies and procedures, incident reports, and related activities it deems necessary to support these functions.

8.2 CONTRACTOR and COUNTY, to the extent feasible, shall include their respective Quality Management staff in each other's Quality Management activities. Such activities shall include, but not be limited to, Quality Improvement Councils, chart audits, program compliance reviews, and Medi-Cal certifications.

8.3 CONTRACTOR is encouraged to attend and participate in COUNTY's monthly Alcohol and Drug Quality Improvement Council meetings.

9. ORGANIZATIONAL COMPLIANCE PLAN

9.1 COUNTY has accepted as policy an Organizational Compliance Plan which addresses compliance with Federal, State, and local laws, regulations, rules and guidelines. It is expected that CONTRACTOR shall maintain a similar compliance plan for its organization, which is consistent with COUNTY's Plan.

9.2 CONTRACTOR shall ensure that compliance is integrated into the provision of services. This shall be reviewed during contract monitoring meetings.

10. PATIENTS' RIGHTS AND PROBLEM RESOLUTION

10.1 CONTRACTOR shall comply with all relevant rules, regulations, statutes, and COUNTY policies and procedures related to individuals' rights to a grievance process, an appeal process, and an expedited appeal process.

10.2 Participants shall be provided a copy of their rights, which shall include the right

of appeal and the right to be free from sexual harassment and sexual contact, by members of the treatment, recovery, advisory, or consultant staff.

10.3 CONTRACTOR shall ensure that each beneficiary has adequate information about the CONTRACTOR's processes to include at a minimum:

10.3.1 Description of grievance and appeal process;

10.3.2 Posting notices explaining the process procedures;

10.3.3 Making grievance forms and appeal forms along with self addressed envelopes available for beneficiaries at CONTRACTOR sites;

10.3.4 Making interpreter services and TDD/TTY available to beneficiaries during normal business hours.

10.4 No provision of this Agreement shall be construed to replace or conflict with the duties of COUNTY's Patients' Rights Advocates as described in Section 5520 of the Welfare and Institutions Code.

11. CONFIDENTIALITY AND INFORMATION SECURITY

11.1 CONTRACTOR shall conform to and monitor compliance with all County, State and Federal statutes and regulations regarding confidentiality, including the confidentiality of information requirements at Part 2, Title 42, Code of Federal Regulations; Welfare and Institutions Code, Section 14100.2; Section 11977, Division 10.5 of the Health and Safety Code; and Title 22, California Code of Regulations, Section 51009 as required by Exhibit C of this Agreement.

11.2 CONTRACTOR shall ensure that no list of persons receiving services under this contract is published, disclosed, or used for any purpose except for the direct administration of this program or other uses authorized by law that are not in conflict with requirements for confidentiality contained in Welfare and Institutions Code Section 14100.2; Health and Safety Code Section 11977; Title 22, California Code of Regulations, Section 51009; and Title 42, Code of Federal Regulations, Part 2. Confidentiality regulations shall apply to all electronic media.

12. MONITORING/REVIEW ASSISTANCE

12.1 The State, DHS, DHHS, Comptroller General of the United States, or other authorized State or Federal agencies and representatives, will be allowed to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Agreement. Any and all books, records, and facilities maintained by CONTRACTOR related to these services may be audited at any time during normal business hours. Unannounced visits may be made by

the State at the discretion of the State.

- 12.2 CONTRACTOR agrees to maintain books, records, documents, and other evidence necessary to facilitate contract monitoring and audits pursuant to Section 640, Title 9, Division 1, Chapter 3, Article 9, of the California Code of Regulations and the policies of Behavioral Health and Recovery Services.
- 12.3 CONTRACTOR shall provide any necessary assistance to COUNTY in its conduct of facility inspections, and operational reviews of the quality of care being provided to beneficiaries, including providing COUNTY with any requested documentation or reports in advance of a scheduled on-site review. CONTRACTOR shall also provide any necessary assistance to COUNTY and the External Quality Review Organization contracting with the State Department of Mental Health in the annual external quality review of the quality of care, quality outcomes, timeliness of, and access to, the services being provided to beneficiaries under this Agreement. CONTRACTOR shall correct deficiencies as identified by such inspections and reviews according to the time frames delineated in the resulting reports.
- 12.4 CONTRACTOR agrees that the COUNTY shall have access to facilities, program documents, records, staff, clients/patients, or other material or persons the COUNTY deems necessary to monitor and audit services rendered.
- 12.5 CONTRACTOR shall participate in regularly scheduled contract monitoring designed to review various aspects of contract services, including actual costs, cost per unit, number of units, amount of required match, and State rates.

13. MEDI-CAL CERTIFICATION

- 13.1 CONTRACTOR shall maintain certification as an organizational provider of Drug Medi-Cal services during the term of this Agreement. This includes meeting all staffing and facility standards required for organizational providers of Drug Medi-Cal services which are claimed and notifying COUNTY's Contract Manager, in writing, of anticipated changes in service locations or to reduce availability at least ninety (90) days prior to the proposed effective date.
- 13.2 A Medi-Cal site certification review is required for all new locations. A review can only be conducted after a fire clearance on the new site is obtained. All Medi-Cal billing for services at locations not yet certified shall be suspended until a fire clearance is received and certification has been concluded. CONTRACTOR may not be reimbursed for services provided which are not Medi-Cal billable.

- 13.3 CONTRACTOR shall be licensed and certified by the State Department of Alcohol and Drug Programs to operate the residential beds.
- 13.4 CONTRACTOR, to the extent applicable, shall comply with “ Sobky v. Smoley, Judgment”, signed February 1, 1998, in 855 F. Supp. 1123 (E.D. Cal 1994).
- 13.5 CONTRACTOR shall comply with federal laws, and Title 22, CCR, to provide substance abuse treatment services deemed medically necessary for Medi-Cal eligible: 1) pregnant and postpartum women; and 2) youth under age 21 who are eligible under the EPSDT Program.
- 13.6 CONTRACTOR shall comply with California Outcome Measurements (CalOMS) with regard to admission and discharge.
- 13.7 CONTRACTOR shall comply with the Drug and Alcohol Services Information System (DASIS), Uniform Facility Data Set (UFDS). Data shall be submitted in accordance with instructions issued by the State.
- 13.8 CONTRACTOR shall ensure its treatment program is accessible to people with disabilities in accordance with Title 45 Code of Federal Regulations, Part 84.

14. RECORDS

- 14.1 CONTRACTOR shall participate in COUNTY's outpatient medical records system. Accordingly, all necessary recording and charting of the provision of services and related documentation shall be entered in the COUNTY's medical record which shall be the sole medical record used by CONTRACTOR in providing services pursuant to this Agreement, unless otherwise agreed upon.
- 14.2 CONTRACTOR shall comply with COUNTY's medical record policies and procedures including, but not limited to, those related to requesting and transporting records, filing, and security. Further, CONTRACTOR shall comply with COUNTY's documentation protocols and use of forms. COUNTY shall provide training, support, and technical assistance if needed.
- 14.3 Clinical records shall be maintained according to COUNTY standards, policies and procedures and Drug Medi-Cal regulations. For each client who has received services, a legible record shall be kept in detail which permits effective quality management processes and external operational audit processes, and which facilitates an adequate system for follow-up treatment.
- 14.4 Clinical records, shall be the property of COUNTY, and maintained by CONTRACTOR in accordance with COUNTY standards.
- 14.5 Each medical record shall be returned to the COUNTY at the time the client is

discharged.

- 14.6 Accounting records and support documents shall be retained for a five (5) year period following the end of the State fiscal year.
- 14.7 The CONTRACTOR shall be subject to the examination and audit of the Auditor General after final payment under Government Code, Section 8546.7.
- 14.8 CONTRACTOR shall make all of its books and records, pertaining to the goods and services furnished under the terms of this Agreement, available for inspection, examination, or copying by COUNTY, HHS, the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized representatives, at all reasonable times at CONTRACTOR's place of business, or at such other mutually agreeable location in California, in a form maintained in accordance with the general standards applicable to such book or record keeping.
- 14.9 These books and records shall be maintained for a term of at least five (5) years after final payment is made and all pending matters closed, or, in the event the CONTRACTOR has been duly notified that the County, State, HHS, or the Comptroller General of the United States, or their duly authorized representatives, have commenced an audit or investigation of the contract, until such time as the matter under audit or investigation has been resolved, whichever is later.

15. REPORTING

- 15.1 CONTRACTOR shall enter all required data into COUNTY's information system (Insyst). Data must be entered by the fourth working day of each month. COUNTY may withhold payment for services until the entry of data is current.
- 15.2 CONTRACTOR shall submit a six- (6) month program report by February 15, of each year. The report shall include a summary of the program events; challenges and strategies; evidence of meeting contract outcomes; staff training, number and percentage of staff that have received HIPAA training; number of complaints regarding breach of confidentiality and disclosures of PHI, number of internal incidents of disclosure discovered, description of incident, action taken to mitigate risk, outcome of incident; evidence of use of the Language Line and interpreters; and inventory list.
- 15.3 CONTRACTOR shall submit a year-end program report by September 30, of each year. The report shall include a summary of the year's events; an update on the challenges and strategies; evidence of meeting contract outcomes; update of

cultural competency activities; staff training, number and percentage of staff that have received HIPAA training; number of complaints regarding breach of confidentiality and disclosures of PHI, number of internal incidents of disclosure discovered, description of incident, action taken to mitigate risk, outcome of incident; evidence of use of the Language Line and interpreters; and inventory list.

- 15.4 CONTRACTOR shall submit an annual report on staff language and ethnicity electronically to BHRS Contract Services by December 31.
- 15.5 CONTRACTOR shall prepare and submit a year-end Drug Medi-Cal cost report for each fiscal year, as required by the State Department of Alcohol and Drug Programs, no later than October 1. COUNTY shall provide the appropriate report forms on hard copy and/or disc.
- 15.6 CONTRACTOR shall provide COUNTY with any other reports, which may be required by State, Federal or local agencies for compliance with this Agreement.
- 15.7 CONTRACTOR shall establish and maintain accounting and fiscal practices that comply with its obligations pursuant to this Agreement.

16. INVENTORY

- 16.1 CONTRACTOR shall furnish COUNTY with, and amend as necessary, a list of all inventory, including computers and associated equipment, in excess of \$1000 purchased with proceeds from this Agreement by December 31. CONTRACTOR shall maintain equipment documents as may be necessary to show clear title and reasonableness of the purchase price. The inventory list shall include an item description, model, serial number, quantity, purchase price, date of purchase, purchase location, inventory location, COUNTY Tag Number, and the name of individual who completed inventory audit.
- 16.2 In the event COUNTY terminates this Agreement, CONTRACTOR may retain such property for use in other COUNTY programs if a contractual relationship continues to exist between COUNTY and CONTRACTOR.

17. PERSONNEL

- 17.1 CONTRACTOR shall adhere to the Statement of Compliance as specified in Exhibit D.
- 17.2 All personnel rendering services under this Agreement shall be employed by, or under contract to CONTRACTOR, and shall be appropriately supervised. Services shall be under the direction of CONTRACTOR's Clinical Director who

shall be a licensed mental health professional or other appropriate individual as described in Sections 622 through 630 of Title 9, of the California Code of Regulations.

- 17.3 CONTRACTOR assures COUNTY that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.
- 17.4 All CONTRACTOR staff transporting clients under the terms of this Agreement shall have received and possess a valid California Drivers License and, if not covered by CONTRACTOR for auto insurance, shall maintain at least minimum coverage.
- 17.5 All staff providing services under this Agreement must obtain a National Provider Identifier (NPI).
- 17.6 All staff providing service under registration with the California State Board of Behavioral Health Science, or the Board of Psychology, shall be supervised by a licensed mental health professional, i.e., a Licensed Clinical Social Worker; Marriage Family Therapist; or Clinical Psychologist.
- 17.7 CONTRACTOR shall ensure a process for credentialing of licensed staff is in place, which includes at a minimum, background checks and license verification.
- 17.8 CONTRACTOR shall follow COUNTY's procedures for registering and terminating CONTRACTOR staff from the COUNTY's Insyst System. This shall include CONTRACTOR providing Insyst Registration Forms to COUNTY for all newly licensed staff, NPI number, and copies of staff's current license to enable COUNTY to maintain accurate information necessary for billing in COUNTY's Insyst System.
- 17.9 CONTRACTOR staff shall be linguistically and culturally qualified to meet the current and projected needs of the client community it serves. CONTRACTOR shall ensure that staff providing bilingual services are fluent in their identified language.
- 17.10 CONTRACTOR shall prohibit sexual contact between participants and staff, including advisory and consultant staff. CONTRACTOR shall inform and shall post a notice of this prohibition in a prominent place in the treatment facility.

18. CODE OF ETHICS

CONTRACTOR's Code of Ethics shall be consistent with COUNTY's Code of Ethics, a

copy of which was provided to CONTRACTOR in Fiscal Year 2001/02.

19. WORKPLACE REQUIREMENTS

- 19.1 CONTRACTOR shall report all incidents of client suicides, homicides, or other unusual occurrences resulting in serious harm to clients or staff, using the Outpatient Incident/Occurrence Reporting Form. Such forms shall be faxed to COUNTY's BHRS Risk Manager within twenty-four (24) hours of time of occurrence or as soon as possible.
- 19.2 CONTRACTOR shall participate, as appropriate, in COUNTY's Root Cause Analysis investigations related to CONTRACTOR's incidents.
- 19.3 CONTRACTOR shall maintain a safe facility for its employees and contract providers, that is as free from safety hazards as is possible. Any reporting of unsafe working conditions by employees or others shall be immediately appraised and addressed.
- 19.4 CONTRACTOR hereby certifies that it complies with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and provides a drug-free workplace.
- 19.5 Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and CONTRACTOR may be ineligible for award of any future Agreements if COUNTY determines that any of the following has occurred: (1) CONTRACTOR has made a false certification or, (2) violates the certification by failing to carry out the requirements as noted above.

20. ACKNOWLEDGEMENT

All public relations and educational material shall mention that CONTRACTOR's Program(s) is partially funded by the Stanislaus County Board of Supervisors, Behavioral Health and Recovery Services, and Community Services Agency.

21. FINANCIAL RELATIONSHIPS

- 21.1 CONTRACTOR shall maintain accurate accounting and other program statistical records such as to meet COUNTY, State and Federal requirements, make such records available to COUNTY, State or Federal authorities upon request, and shall maintain such records until audit findings are resolved.
- 21.2 The cost of providing services shall be indicated in an annual financial audit performed by an independent public accounting firm. Such audit must be performed in accordance with Government Audit standards as set forth in the

Guidelines for Financial and Compliance Audits for Federally Assisted Programs, Activities, and Functions, and the provisions of OMB Circular A-133. This audit shall be submitted to COUNTY within one hundred twenty (120) days after the end of the CONTRACTOR's fiscal year.

21.3 CONTRACTOR shall not use funds provided under this Agreement for the purchase or improvement of land; purchase, construction or permanent improvement of any building or facility; or the purchase of major medical equipment.

22. REQUIRED LICENSES, CERTIFICATES AND PERMITS

Any licenses, certificates, or permits required by the Federal, State, County, or municipal governments for CONTRACTOR to provide the services and work described in this Agreement shall be procured by CONTRACTOR and be valid at the time CONTRACTOR enters into this Agreement. Further, during the term of this Agreement, CONTRACTOR shall maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits shall be procured and maintained in force by CONTRACTOR at no direct expense to COUNTY.

23. INDEMNIFICATION

23.1 To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend COUNTY and its elected officials, agents, officers, employees, and volunteers against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by CONTRACTOR or CONTRACTOR's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Notwithstanding the foregoing, CONTRACTOR's obligation to indemnify the COUNTY and its agents, officers and employees for any judgment, decree or arbitration award shall extend only to the percentage of negligence or responsibility of the CONTRACTOR in contributing to such claim, damage, loss and expense.

23.2 CONTRACTOR's obligation to defend, indemnify and hold COUNTY and its elected officials, agents, officers, employees and volunteers harmless under the

provisions of this paragraph is not limited to or restricted by any requirement in the Agreement for CONTRACTOR to procure and maintain a policy of insurance.

- 23.3 To the fullest extent permitted by law, the COUNTY shall indemnify, hold harmless and defend the CONTRACTOR and its officers, employees, agents, representatives or subcontractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the negligence or wrongful acts of COUNTY and its officers or employees.

24. INSURANCE

- 24.1 CONTRACTOR shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

24.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by CONTRACTOR under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

24.1.2 Professional Liability. Professional errors and omissions (malpractice) liability insurance with limits of no less than One Million Dollars (\$1,000,000) aggregate. Such professional liability insurance shall be continued for a period of no less than one year following completion of the CONTRACTOR's services.

24.1.3 Automobile Liability Insurance. If CONTRACTOR or CONTRACTOR's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits or no less than One Million Dollars (\$1,000,000) per incident or occurrence.

24.1.4 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, CONTRACTOR certifies under section 1861 of the Labor Code that

CONTRACTOR is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that CONTRACTOR will comply with such provisions before commencing the performance of the work of this Agreement.

- 24.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by COUNTY. At the option of COUNTY, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) CONTRACTOR shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to COUNTY guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. COUNTY, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, CONTRACTOR agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of CONTRACTOR's defense and indemnification obligations as set forth in this Agreement.
- 24.3 CONTRACTOR shall provide a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming COUNTY and its officers, officials and employees as additional named insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of CONTRACTOR, including the insured's general supervision of its sub-contractors; (b) services, products and completed operations of CONTRACTOR; (c) premises owned, occupied or used by CONTRACTOR; and (d) automobiles owned, leased, hired or borrowed by CONTRACTOR. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against COUNTY and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by CONTRACTOR.
- 24.4 CONTRACTOR's insurance coverage shall be primary insurance regarding COUNTY and COUNTY's officers, officials and employees. Any insurance or

self-insurance maintained by COUNTY or COUNTY's officers, officials and employees shall be excess of CONTRACTOR's insurance and shall not contribute with CONTRACTOR's insurance.

- 24.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to COUNTY or its officers, officials, employees or volunteers.
- 24.6 CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 24.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior notice has been given to COUNTY. CONTRACTOR shall promptly notify, or cause the insurance carrier to promptly notify, COUNTY of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.
- 24.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to COUNTY; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-VII shall be acceptable to COUNTY; lesser ratings must be approved in writing by COUNTY.
- 24.9 CONTRACTOR shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional named insureds under its insurance policies.
- 24.10 At least ten (10) days prior to the date CONTRACTOR begins performance of its obligations under this Agreement, CONTRACTOR shall furnish COUNTY with certificates of insurance and with original endorsements effecting coverage required by this Agreement, including, without limitation, those effecting coverage for subcontractors of CONTRACTOR. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All certificates and endorsements shall be received

and, in COUNTY's sole and absolute discretion, approved by COUNTY.

COUNTY reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

24.11 The limits of insurance described herein shall not limit the liability of CONTRACTOR and CONTRACTOR's officers, employees, agents, representatives or subcontractors.

25. NOTICE

Any notice, communication, amendments, additions, or deletions to this Agreement including change of address of either party during the term of this Agreement, which either party shall be required or may desire to make, shall be in writing and may be personally served or sent by prepaid first class mail to the respective parties as follows:

County: County of Stanislaus
Behavioral Health and Recovery Services
Attention: Contract Manager
800 Scenic Drive
Modesto, CA 95350

Contractor: Judy Kindle, Executive Director
Sierra Vista Child and Family Services
1400 K Street
Modesto, CA 95350

26. CONFLICTS

CONTRACTOR agrees that it has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

27. SEVERABILITY

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any Federal, State or County statute, ordinance, regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated there and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

28. AMENDMENT

This Agreement may be modified, amended, changed, added to, or subtracted from by mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

29. ENTIRE AGREEMENT

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

30. RELATIONSHIP OF PARTIES

This is an Agreement by and between two (2) independent contractors and is not intended to, and shall not be construed to be, nor create the relationship of agent, servant, employee, partnership, joint venture, or any other similar association.

31. REFERENCES TO LAWS AND RULES

In the event any statute, regulation, or policy referred to in this Agreement is amended during the term of this Agreement; the parties shall comply with the amended provision as of the effective date of such amendment.

32. ASSIGNMENT

32.1 COUNTY has relied upon the skills, knowledge, experience, and training presented by CONTRACTOR, as an inducement to enter into this Agreement. CONTRACTOR shall not assign or subcontract this Agreement, either in whole or in part, without prior written consent of COUNTY, which shall not be unreasonably withheld.

32.2 CONTRACTOR shall not assign any monies due or to become due under this Agreement without the prior written consent of COUNTY.

33. AVAILABILITY OF FUNDS

Payments for services provided in accordance with the provisions of this Agreement are contingent upon the availability of County, State, and Federal funds. If Federal, State, and local entities do not appropriate sufficient funds for this program, the County has the option to terminate this Agreement or amend the Agreement to reflect any reduction of funds.

34. WAIVER OF DEFAULT

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed

to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

35. VENUE

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

36. TERM

- 36.1 This Agreement shall commence on July 1, 2009, and continue through August 31, 2009. Either party may terminate this Agreement, with or without cause, by giving thirty (30) days prior written notice to the other party. COUNTY may suspend or terminate this Agreement for cause upon written notice to CONTRACTOR immediately, or upon such notice, as COUNTY deems reasonable. If the default is cured by CONTRACTOR to the satisfaction of COUNTY, or COUNTY determines that the default should be excused, COUNTY may reinstate the Agreement, or revoke the termination upon application by CONTRACTOR.
- 36.2 In the event of termination or expiration of this Agreement, CONTRACTOR shall assist COUNTY in the orderly transfer of clients. In doing this, CONTRACTOR shall make available any pertinent information necessary for efficient case management of clients as determined by COUNTY. In no case shall a client be billed for this service.
- 36.3 Any failure of any Memorandum of Understanding or Agreement CONTRACTOR has with any other agency shall not affect their performance under this Agreement.
- 36.4 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, (b) sale of CONTRACTOR 's business, (c) cancellation of insurance required under the terms of this Agreement, and (d) if, for any reason, CONTRACTOR ceases to be licensed or otherwise authorized to do business in the State of California, and the CONTRACTOR fails to remedy such defect or defects within thirty (30) days of receipt of notice of such defect or defects.

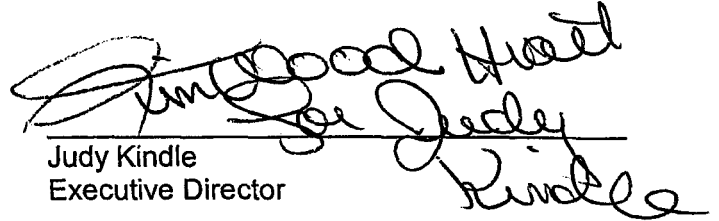
IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first hereinabove written.

**COUNTY OF STANISLAUS
BEHAVIORAL HEALTH AND
RECOVERY SERVICES**

**SIERRA VISTA CHILD AND FAMILY
SERVICES**



Denise C. Hunt, RN, MFT
Behavioral Health Director



Judy Kindle
Executive Director

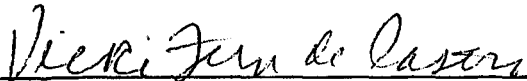
APPROVED AS TO CONTENT:



Madelyn Schlaepfer, Ph.D.
Associate Director for Operations

APPROVED AS TO FORM:

John P. Doering, County Counsel



Vicki Fern de Castro
Deputy County Counsel

BOS Action Item: 2009-434, June 30, 2009

A. SERVICES

1. CONTRACTOR shall provide a comprehensive Day Care Habilitative, Outpatient Program to pregnant, postpartum, and parenting women. The Outpatient component shall be restricted to women who are residents of Stanislaus County. This County residence requirement does not apply to Drug Medi-Cal clients.
2. All aspects of the program shall be in compliance with requirements of the State Department of Alcohol and Drug Programs, including 2004 State of California Standards for Direct Alcohol Program Services, Revised December 1, 1984; State of California Standards for Drug Treatment Programs, Revised September, 1982; Perinatal Services Network Guidelines, Fall, 1995; and Substance Abuse Prevention and Treatment Block Grant (Federal Catalog 93.959, 1993) Regulations.
3. For as long as drug and alcohol services are an option under California's Medi-Cal system, CONTRACTOR shall meet State requirements necessary for COUNTY to claim Medi-Cal for drug and alcohol services, including Title 22, Section 51341.1, which identifies definitions and requirements related to the provision of Drug Medi-Cal Substance Abuse Services.
4. CONTRACTOR shall conduct an Intake Assessment within five to seven working days of receiving the referral. CONTRACTOR shall include administration of the State-adopted Addiction Severity Index (ASI), the results of which shall be provided, by fax, mail or in person to the referring agency within fourteen (14) days of admission.
5. CONTRACTOR shall develop a comprehensive treatment plan for each client, including education and interventions for drug/alcohol dependence, parent education and structured parent/child labs. See Exhibit B for the Program Schedule.
6. CONTRACTOR's program shall consist of three phases:
 - 6.1 Phase I, Motivation (8-10 weeks);
 - 6.2 Phase II, Active Treatment (10-12 weeks);
 - 6.3 Phase III, Relapse Prevention (6-8 weeks).
7. CONTRACTOR shall provide case management services to ensure that program services, advocacy, referral, and linkages to other service providers in the community are made available to participants.
8. CONTRACTOR shall randomly test program participants at least one (1) time per month, or more often, if indicated on the participant's treatment plan. With the appropriate release of information on file, results shall be provided to referring agencies within a reasonable time period.
9. CONTRACTOR's program shall effectively coordinate and collaborate with various service providers, including COUNTY's Alcohol and Other Drug Programs, Families in Partnership Program, and various CSA programs, including but not limited to, Family Reunification, Family maintenance, Welfare to Work, and StanWORKS Behavioral Health Services. In concert with Alliance

Worknet, CONTRACTOR shall refer clients for vocational and educational opportunities. CONTRACTOR shall collaborate with the Curriculum Blending Committee to ensure that referrals for TANF are made

10. CONTRACTOR shall reduce barriers, which negatively impact participants, including geographic barriers, by coordination with available transportation services, including providing transportation for participants in a CONTRACTOR-owned or leased van.
11. Until such services are provided by CONTRACTOR, CONTRACTOR shall refer participants identified as dually diagnosed to COUNTY's Behavioral Health and Recovery Services for treatment.
12. CONTRACTOR shall collaborate with other providers for men's programs, including COUNTY's Alcohol and Drug System of Care, domestic violence treatment programs, and CONTRACTOR's programs for men.
13. CONTRACTOR shall comply with State CalOMS requirements, which include discharging consumers who are not actively in treatment, within 30 days.

B. PROGRAM OUTCOMES

1. It is expected that sixty percent (60%) of the participants will show:
 - 1.1 Decreased substance abuse as measured by urine test results.
 - 1.2 Improvement in parenting skills (discipline, family communication, and anger management skills) as measured by pre and post testing.
 - 1.3 Satisfaction with treatment services as measured by the Client Satisfaction Questionnaire (County MHSIP).
 - 1.4 Increased utilization of support systems as measured by CalOMS and MHSIP data.
2. It is expected that women meeting Temporary Assistance to Needy Families (TANF) eligibility will participate in employment activities during the second phase of treatment.
3. It is expected that all partners will be surveyed using CONTRACTOR's internal satisfaction survey which is administered in June. It is expected that all those surveyed will report a satisfactory or above response,

C. PERFORMANCE MEASURES

1. It is expected that seventy percent (70%) of the participants will be engaged after the initial assessment as measured by the number of participants that return for a follow-up appointment or group.
2. It is expected that sixty percent (60%) of the participants will be retained at least 90 days or more in treatment.
3. If the program offers more than one level of care, it is expected that sixty percent (60%) of the participants will move between levels of care without dropping out of treatment.

D. BILLING AND PAYMENT

1. CONTRACTOR shall provide approximately 1,000 units (days) of Day Care Habilitative/ODF services during the term of this Agreement.
2. COUNTY shall reimburse CONTRACTOR through the following funding sources: State Alcohol and Drug General Funds; Federal Substance Abuse Prevention and Treatment Block Grant; Drug Medi-Cal; State Child Welfare Services Allocation; and StanWORKs Mental Health and Substance Abuse allocation.
3. In consideration of CONTRACTOR's provision of services under this Agreement, COUNTY shall reimburse CONTRACTOR the costs associated with the operation of the Perinatal Program, an amount not to exceed \$152,907 for the period July 1, 2009 through August 30, 2009. Drug Medi-Cal revenue of \$16,667 from CONTRACTOR's provision of services to Eligible Drug Medi-Cal clients is, in part, the basis of funding this Agreement. COUNTY net cost under this Agreement shall not exceed \$136,240, which is the CONTRACTOR's actual costs, up to \$152,907, less the Drug Medi-Cal revenue of \$16,667.
4. COUNTY shall reimburse CONTRACTOR monthly at the rate of one-half of the maximum COUNTY net cost, or \$68,120; plus the amount of Drug Medi-Cal revenue generated by services to Eligible Drug Medi-Cal clients during the month, up to \$8,334; for a maximum total monthly reimbursement not to exceed \$76,454.
5. CONTRACTOR shall submit monthly invoices to COUNTY's BHRS Contract Manager. The invoice shall include the units of service provided during the preceding month with a list of clients served by referral source. COUNTY shall determine appropriate source of funding, including Drug Medi-Cal. Upon reconciliation, COUNTY shall make payment to CONTRACTOR within thirty (30) days from receipt of CONTRACTOR's invoice.
6. CONTRACTOR shall provide COUNTY a report of actual expenditures by October 15, 2009. COUNTY and CONTRACTOR shall settle to CONTRACTOR's actual cost, not to exceed \$152,907, and to COUNTY net cost, not to exceed \$136,240, in January 2010.

E. DUPLICATE COUNTERPARTS

The Agreement may be executed in duplicate counterparts, each of which shall be deemed a duplicate original.

**FIRST STEP
Program Schedule
Outpatient Clients**

--

OUTPATIENT

*Groups meet at Satellite Site – FIP Building, Sites, B & C – 1920 Memorial Drive, Ceres
541-2984 or 541-2118*

	Monday	Tuesday	Wednesday	Thursday	Friday
--	--------	---------	-----------	----------	--------

<i>Orientation</i>	1-4				
---------------------------	-----	--	--	--	--

<i>Phase I</i>	1-4 Substance	1-4 Parenting	1-4 Substance	1-4 Parenting	Read Journals Assess./ 1:1
-----------------------	------------------	------------------	------------------	------------------	-------------------------------

<i>Phase II</i>	9-12 Substance Parenting		9-12 Substance Parent Labs	9-12 Parenting	Read Journals Assess./ 1:1
------------------------	--------------------------------	--	----------------------------------	-------------------	-------------------------------

<i>Phase III</i>	9-12 Substance Parenting		9-12 Substance Parenting		Read Journals Assess./ 1:1
-------------------------	--------------------------------	--	--------------------------------	--	-------------------------------

<i>12-Week</i>	Substance/Parenting		Substance/Parenting		
-----------------------	---------------------	--	---------------------	--	--

<i>Aftercare</i>	8:30-10:30				
-------------------------	------------	--	--	--	--

*Three (3) or more AA/NA meetings are **required** each week – all Phases*

--

Effective: 3/29/07

**Confidentiality and Information Security Provisions
Direct Service Providers**

1. As a covered entity, the Contractor shall comply with applicable laws and regulations, including but not limited to Sections 14100.2 and 5328 et seq. of the Welfare and Institutions Code and the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to Section 1320 d et seq. of Title 42, United States Code and its implementing regulations (including but not limited to Title 45, CFR, Parts 160, 162 and 164) regarding the confidentiality and security of individually identifiable health information (IIHI).
2. Permitted Uses and Disclosures of IIHI by the Contractor.
 - A. *Permitted Uses and Disclosures.* Except as otherwise provided in this Agreement, the Contractor, may use or disclose IIHI to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate federal or state laws or regulations.
 - B. *Specific Uses and Disclosures Provisions.* Except as otherwise indicated in the Agreement, the Contractor may:
 - (1) Use and disclose IIHI for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor, provided that such use and disclosures are permitted by law.
 - (2) Use IIHI to provide data aggregation services to County. Data aggregation means the combining of IIHI created or received by the Contractor for the purposes of this Agreement with IIHI received by the Contractor in its capacity as the Contractor of another HIPAA covered entity, to permit data analyses that relate to the health care operations of County.
3. Responsibilities of the Contractor.

The Contractor agrees:

- A. *Safeguards.* To prevent use or disclosure of IIHI other than as provided for by this Agreement. The Contractor shall develop and maintain an information privacy and security program that includes the implementation of administrative, technical, and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately protect the confidentiality, integrity, and availability of the IIHI that it creates, receives, maintains, or transmits; and prevent the use or disclosure of IIHI other than as provided for by this Agreement. The Contractor shall provide County with information concerning such safeguards as County may reasonably request from time to time.

The Contractor shall restrict logical and physical access to confidential, personal (e.g., PHI) or sensitive data to authorized users only.

The Contractor shall not transmit confidential, personal, or sensitive data via e-mail or other Internet transport protocol over a public network.

- B. *Mitigation of Harmful Effects.* To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of IIHI by Contractor or its subcontractors in

**Confidentiality and Information Security Provisions
Direct Service Providers**

violation of the requirements of this Agreement.

- C. *Agents and Subcontractors of the Contractor.* To ensure that any agent, including a subcontractor to which the Contractor provides IHI received from County, or created or received by the Contractor, for the purposes of this contract shall comply with the same restrictions and conditions that apply through this Agreement to the Contractor with respect to such information.
- D. *Notification of Electronic Breach or Improper Disclosure.* During the term of this Agreement, Contractor shall notify County immediately upon discovery of any breach of IHI and/or data, where the information and/or data is reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to the County BHRS Privacy Officer, within two business days of discovery, at (209) 525-6225. Contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Contractor shall investigate such breach and provide a written report of the investigation to the BHRS Officer, postmarked within fifteen (15) working days of the discovery of the breach to the address below:

**BHRS Privacy Officer
Behavioral Health and Recovery Services
800 Scenic Drive
Modesto, CA 95320**

- E. *Employee Training and Discipline.* To train and use reasonable measures to ensure compliance with the requirements of this Agreement by employees who assist in the performance of functions or activities under this Agreement and use or disclose IHI; and discipline such employees who intentionally violate any provisions of this Agreement, including by termination of employment.

4. Termination.

- A. *Termination for Cause.* Upon County's knowledge of a material breach of this Agreement by Contractor, County shall either:
- (1) Provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by County.
 - (2) Immediately terminate this Agreement if Contractor has breached a material term of this Agreement and cure is not possible; or
 - (3) If neither cure nor termination is feasible, the BHRS Privacy Officer shall report the violation to the DMH Information Security Officer of the Department of Mental Health.
- B. *Judicial or Administrative Proceedings.* County may terminate this Agreement, effective immediately, if (i) Contractor is found liable in a civil matter or guilty in a criminal proceeding for a violation of the HIPAA Privacy or Security Rule or (ii) a finding or stipulation is made, in an administrative or civil proceeding in which the Contractor is a

**Confidentiality and Information Security Provisions
Direct Service Providers**

party, that the Contractor has violated a privacy or security standard or requirement of HIPAA, or other security or privacy laws.

- C. *Effect of Termination.* Upon termination or expiration of this Agreement for any reason, Contractor shall return or destroy all IHI received from County that Contractor still maintains in any form, and shall retain no copies of such IHI or, if return or destruction is not feasible, it shall continue to extend the protections of this Agreement to such information, and limit further use of such IHI to those purposes that make the return or destruction of such IHI infeasible. This provision shall apply to IHI that is in the possession of subcontractors or agents of the Contractor.

5. *Miscellaneous Provisions.

- A. *Disclaimer.* County makes no warranty or representation that compliance by Contractor with this Agreement, HIPAA or the HIPAA regulations will be adequate or satisfactory for Contractor's own purposes or that any information in the Contractor's possession or control, or transmitted or received by the Contractor, is or will be secure from unauthorized use or disclosure. Contractor is solely responsible for all decisions made by Contractor regarding the safeguarding of IHI.
- B. *Assistance in Litigation or Administrative Proceedings.* Contractor shall make itself, and use its best efforts to make any subcontractors, employees or agents assisting Contractor in the performance of its obligations under this Agreement, available to County at no cost to County to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings against County, its directors, officers or employees for claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy based upon actions or inactions of the Contractor and/or its subcontractor, employee, or agent, except where Contractor or its subcontractor, employee, or agent is a named adverse party.
- C. *No Third-Party Beneficiaries.* Nothing expressed or implied in the terms and conditions of this Agreement is intended to confer, nor shall anything herein confer, upon any person other than County or Contractor and their respective successors or assignees, any rights remedies, obligations or liabilities whatsoever.
- D. *Interpretation.* The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable State laws. The parties agree that any ambiguity in the terms and conditions of this Agreement shall be resolved in favor of a meaning that complies and is consistent with applicable laws.
- E. *Regulatory References.* A reference in the terms and conditions of this Agreement to a section in the HIPAA regulations means the section as in effect or as amended.
- F. *Survival.* The respective rights and obligations of Contractor under Section 5.B of this Exhibit shall survive the termination or expiration of this Agreement.
- G. *No Waiver of Obligations.* No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

STATEMENT OF COMPLIANCE

A. CONTRACTOR agrees, unless specifically exempted, compliance with Government Code Section 12900 (a-f) and California Code of Regulations, Title 2, Division 4, Chapter 5 in matters relating to reporting requirements and the development, implementation and maintenance of a Nondiscrimination Program. Contractor agrees not to unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Employment of personnel shall be made solely on the basis of merit.

1. Action shall be taken to ensure applicants are employed, and employees are treated during employment, without regard to their race, religion, color, sex, national origin, age, physical or mental handicap. Such action shall include, but not be limited to, the following: Employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff; or apprenticeship. However, recruitment and employment of applicants shall reflect the ethnic and racial composition of COUNTY, particularly those groups not previously, nor currently, having adequate representation in recruitment or hiring. There shall be posted, in conspicuous places, notices available to employees and applicants for employment provided by COUNTY Officer responsible for contracts setting forth the provisions of the Equal Opportunity clause.

2. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR and/or the subcontractor shall state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, age, or physical or mental handicap.

3. Each labor union or representative of workers with which COUNTY and/or the subcontractor has a collective bargaining agreement, or other contract or understanding, must post a notice provided by COUNTY Officer responsible for contracts, advising the labor union or workers representative of CONTRACTOR's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. In the event of noncompliance with the discrimination clause of this contract or as otherwise provided by State and Federal law, this contract may be canceled, terminated or suspended, in whole or in part, and CONTRACTOR and/or the subcontractor may be declared ineligible for further State contracts in accordance with the procedures authorized in the Behavioral Health and Recovery Services' Complaint Process.

5. All provision of Paragraph 1 through this paragraph 5 will be included in every subcontract unless exempted by rules, regulations or orders of the Director of the Behavioral Health and Recovery Services so such provisions will be binding upon each subcontractor. CONTRACTOR will take such action with respect to any subcontract as the State may direct as a means of enforcing such provisions including sanctions for noncompliance provided; however, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor as a result of such direction by the State, CONTRACTOR may request in writing to the State, who, in turn, may request the United States to enter into such litigation to protect the interest of the State and the United States.

B. Services, benefits and facilities shall be provided to patients without regard to their race, color, creed, national origin, sex, age or physical or mental handicap, and no one will be refused service because of inability to pay for such services.

1. Nondiscrimination in Services, Benefits and Facilities: There shall be no discrimination in the provision of services because of color, race, creed, national origin, sex, age, or physical or mental handicap in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d, rules and regulations promulgated pursuant thereto, or as otherwise provided by State and Federal law. For the purpose of the contract, distinctions on the grounds of color, race, creed, national origin, sex, or age include, but are not limited to, the following: denying a participant any service or benefit to the participant which is different, or is provided in a different manner or at a different time, from that provided to other participants under this contract; subjecting a participant to segregation or separate treatment in any matter related to this receipt of any service; restricting a participant in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether he/she satisfied any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of the race, color, creed, or national origin of the participants to be served. COUNTY and all subcontractors will take action to ensure intended beneficiaries are provided services without regard to color, race, creed, national origin, sex, age, or physical or mental handicap.

2. Procedure for Complaint Process: All complaints alleging discrimination in the delivery of services by COUNTY and/or the subcontractor because of race, color, creed, national origin, sex, age, or physical or mental handicap, may be resolved by the State through the State Department of Mental Health's Action Complaint Process.

3. Notice of Complaint Process: COUNTY and all subcontractors shall, subject to the approval of the Behavioral Health and Recovery Services, establish procedures under which recipients of the service are informed of their rights to file a complaint alleging discrimination or a violation of their civil rights with the State Department of Mental Health.

C. COUNTY and any subcontractor will furnish all information and reports required by the Behavioral Health and Recovery Services and will permit access to books, records and accounts for purposes of investigation to ascertain compliance with above paragraphs.

D. COUNTY and all subcontractors assure all recipients of service are provided information in accordance with provisions of Welfare and Institutions Code, Sections 5325 and 5325.1, and Sections 5520 through 5550, pertaining to their rights as patients, that COUNTY has established a system whereby recipients of service may file a complaint for alleged violations of their rights.

E. CONTRACTOR agrees to the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all Federally-assisted programs or activities, as detailed in regulations signed by the Secretary of Health, Education and Welfare, effective June 3, 1977, and found in the Federal Register, Volume 42, Number 86, dated May 4, 1977.