

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

DEPT: Behavioral Health and Recovery Services

BOARD AGENDA # *B-1

Urgent

Routine

AGENDA DATE September 29, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of Agreements for Mental Health and Ancillary Services for Fiscal Year 2009-2010 - Behavioral Health and Recovery Services

STAFF RECOMMENDATIONS:

1. Approve the agreement and amendment to an agreement with service providers for mental health and ancillary services through the end of Fiscal Year 2009-2010 included in this agenda item.
2. Authorize the Behavioral Health Director, or her designee, to sign the agreement and the amendment to an agreement included in this agenda item.
3. Authorize the Behavioral Health Director, or her designee, to negotiate and sign amendments to agreements included in this agenda item, to add services and payment for services up to \$50,000 per agreement, budget permitting, throughout Fiscal Year 2009-2010.

FISCAL IMPACT:

Behavioral Health and Recovery Services approved budget for Fiscal Year 2009-2010 includes funding in the amount of \$211,000 for this agreement and amendment. There is no impact to the County General Fund.

BOARD ACTION AS FOLLOWS:

No. 2009-647

On motion of Supervisor Monteith, 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:

Behavioral Health and Recovery Services contracts with numerous individuals and agencies to provide mental health, alcohol and other drug and ancillary services to Stanislaus County residents. In most cases, individuals and agencies are selected through a competitive process, which takes into account specific expertise, as well as cost efficiency. Agreements are renewed based on a demonstrated ability to deliver required outcomes effectively, along with availability of funding. While a number of agencies have successful, long term partnering relationships with Behavioral Health and Recovery Services, all major provider agreements continue to be reviewed and, consistent with Board of Supervisors' direction, competitive bids will be sought periodically.

Behavioral Health and Recovery Services experiences occasional funding opportunities and unanticipated increases in the utilization of services throughout the year. On many occasions, this additional funding is time sensitive; hence, the Department requests authorization for the Behavioral Health Director, or her designee, to negotiate and execute amendments up to \$50,000 to the agreements included in this agenda item, budget permitting, without further action by the Board of Supervisors, throughout Fiscal Year 2009-2010.

As required by the Board of Supervisors on January 25, 2006, the following table includes a cumulative value of prior contracts with these vendors for the period beginning January 24, 2005 through June 30, 2010.

Budget Unit	Contractor	Description of Service Provided or Position Held	Contract Amount for Previous Contractual Period	Proposed Contract Amount and Time Period	Cumulative Contract Total
Stanislaus Recovery Center	Howard Training Center	Food and Nutrition Services	None	\$115,000 (11/01/09-6/30/10)	\$115,000
Mental Health Services Act	John G. Ott and Associates	Mental Health Services Act Training	\$77,674 (07/01/05-6/30/10)	\$96,000 (10/15/09-6/30/10)	\$173,674

POLICY ISSUE:

Approval of this agenda item supports the Board of Supervisors' priorities of *A healthy community*, *Effective partnerships* and *Efficient delivery of public services* by working with community providers to deliver the needed services in a cost effective manner.

STAFFING IMPACT:

There are no staffing impacts associated with this item.

2009-647 #1
09/29/09

BOARD OF SUPERVISORS

2010 DEC 10 P 12:01

**AGREEMENT
FOR
INDEPENDENT CONTRACTOR SERVICES**

This Agreement For Independent Contractor Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and Howard Training Center, a California Nonprofit Organization ("Contractor"), on November 1, 2009.

Recitals

WHEREAS, the County has a need for services involving food and nutrition services at Stanislaus Recovery Center; and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. **Scope of Work**

1.1 The Contractor shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit A**, attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Contractor under this Agreement, including without limitation electronic data files, are the property of the Contractor; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.

1.3 Services and work provided by the Contractor at the County's request under this Agreement will be performed in a timely manner consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions, and in accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

2. **Consideration**

2.1 County shall pay Contractor as set forth in Exhibit A.

2.2 Except as expressly provided in Exhibit A of this Agreement, Contractor shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

2.4 Pursuant to Penal Code section 484b and to Business and Professions Code section 7108.5, the Contractor must apply all funds and progress payments received by the Contractor from the County for payment of services, labor, materials or equipment to pay for such services, labor, materials or equipment. Pursuant to Civil Code section 1479, the Contractor shall direct or otherwise manifest the Contractor's intention and desire that payments made by the Contractor to subcontractors, suppliers and materialmen shall be applied to retire and extinguish the debts or obligations resulting from the performance of this Agreement.

3. Term

3.1 The term of this Agreement shall be from the date of approval of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit A.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 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.

3.4 The County may terminate this agreement upon thirty (30) days prior written notice to the Contractor. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

4. 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 Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must 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 will be procured and maintained in force by Contractor at no expense to the County.

5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in Exhibit A, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services identified in Exhibit A to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

6. Insurance

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

6.1.1 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.

6.1.2 Automobile Liability Insurance. If the Contractor or the 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 of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the 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 the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the 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. The County,

in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the 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 the Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the County and its officers, officials and employees as additional 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 the Contractor, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the 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 the Contractor.

6.4 The Contractor's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees or volunteers.

6.6 The 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.

6.7 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 written notice has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the 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.

6.8 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 the 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 the County, lesser ratings must be approved in writing by the County.

6.9 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 insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its

obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The

certificates and endorsements for each insurance policy are to be signed by a person authorized by that 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.

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

7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend the County and its agents, officers and employees from and 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 the 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; provided, however, such indemnification shall not extend to or cover loss, damage or expense arising from the sole negligence or willful misconduct of the County or its agents, officers and employees.

7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with

respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period service is provided to County under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

8.5 It is understood and agreed that as an independent Contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.6 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's assigned personnel under the terms and conditions of this Agreement.

8.7 As an independent Contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex, or sexual orientation. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. 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.

14. Notice

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

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

To Contractor: Howard Training Center
Attention: Claudia Miller, Executive Director
1424 Stonum Road
Modesto, CA 95351

15. Conflicts

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

16. 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 or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the 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.

18. 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.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. Governing Law and 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.

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**

HOWARD TRAINING CENTER

By: *Denise C. Hunt*
Denise C. Hunt, RN, MFT
Behavioral Health Director

"County"

By: *Claudia K. Miller*
Claudia K. Miller
Executive Director

"Contractor"

APPROVED AS TO CONTENT:

By: *Madelyn Schlaepfer*
Madelyn Schlaepfer, Ph.D.
Associate Director

APPROVED AS TO FORM:
John P. Doering, County Counsel

By: *Vicki Fern de Castro*
Vicki Fern de Castro
Deputy County Counsel

BOS Action Item: 2009-647, September 29, 2009

EXHIBIT A

A. SCOPE OF WORK

1. Contractor shall provide meals, three (3) times per day, seven (7) days a week for Stanislaus Recovery Center (SRC).
2. County and Contractor shall each designate a Project Manager. Any special requests, changes or revisions shall be discussed and agreed to in advance by the parties' respective Project Manager. The designated Project Manager for County will be Debbie Vieira, Stanislaus Recovery Center Manager, and for Contractor the Project Manager will be Billy Reid, Director of Culinary Services.
3. Menus shall be developed by Contractor and shall comply with the standards for nutritional adequacy as set forth by the American Dietetic Association (ADA).
4. County personnel shall pick up meals and supplies at Howard Training Center thirty (30) minutes prior to scheduled meal times, seven (7) days per week. Occasionally, meals may be picked up in advance. The scheduled meal times are as follows:

	<u>Meal Times at SRC</u>	<u>Meal Pick-up Times at HTC</u>
Breakfast:	8:00 a.m.	7:30 a.m.
Lunch:	12:00 p.m.	11:30 a.m.
Dinner:	5:00 p.m.	4:30 p.m.

5. Contractor and County shall use time as a control measure to properly handle food. Contractor shall provide County with transport sheets as documentation.
6. Contractor shall provide food transport equipment to County for the duration of the contract.
7. County personnel shall return food pans and serving utensils to Contractor.
8. Meal counts shall be calculated by County personnel one day in advance and emailed to the Project Manager at HTC, at the following email address:
breid@howardtrainingcenter.com
9. Contractor shall make accommodations for special dietary needs upon request, with 72 hours advance notice.
10. Sack lunches may be prepared in lieu of regular lunches with 72 hours advance notice to Contractor.
11. Occasionally, meal counts may be reduced due to planned events off site with 72 hours advance notice to Contractor.

B. CONFIDENTIALITY

See Exhibit B for compliance with Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule and Security Standards.

C. MUTUAL DEFENSE AND INDEMNIFICATION (NON PROFIT ORGANIZATION)

In reference to Section 7 Defense and Indemnification, under Terms and Conditions of this Agreement, is deleted in its entirety and replaced with the following:

Neither party, nor any of its officers or employees, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the other party under or in connection with any work delegated to that party under this Agreement. The parties further agree, pursuant to Government Code Section 895.4, that each party shall fully indemnify and hold harmless the other party and its agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by such party under this Agreement.

D. CONSIDERATION

1. Contractor shall be compensated for meals, based on actual daily meal counts, provided under this Agreement as follows:

Breakfast:	\$2.15
Lunch/Sack Lunch:	\$2.26
Dinner:	\$4.87

2. Contractor shall submit monthly invoices, which include the billing period, the total number of meals provided by type and the cost of supplies included with the meals. County shall pay invoices within thirty (30) calendar days of receipt. Invoices shall be sent to the following address:

Stanislaus County
Behavioral Health and Recovery Services
Attention: Accounts Payable
800 Scenic Drive
Modesto, CA 95350

3. The parties hereto acknowledge the maximum amount to be paid by County for services during the term of this Agreement shall not exceed \$115,000.

E. FUNDING

If, during the time which this Agreement is in effect, funds are not allocated to County or Behavioral Health and Recovery Services, sufficient to allow for a continuation of this Agreement, then County may, at its sole discretion, terminate this Agreement, without penalty from or further obligation to Contractor. Contractor shall have no further obligation to County.

F. TERM

These services shall commence on November 1, 2009, and continue through June 30, 2010.

G. DUPLICATE COUNTERPARTS

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

BUSINESS ASSOCIATE EXHIBIT

Business Associate (BA) shall comply, to the extent required by law, with the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), (including but not limited to Title 42, U.S.C. Section 1320d et seq.) and its implementing regulations (including but not limited to Title 45, Code of Federal Regulations (CFR), Parts 142, 160, 162 and 164), hereinafter collectively referred to as the "Privacy Rule and Security Standards."

If COUNTY becomes aware of a pattern of activity that violates the HIPAA Privacy Rule, and reasonable steps to cure the violation are unsuccessful, the COUNTY may terminate the Agreement, or if not feasible; report the problem to the Secretary of the US Department of Health and Human Services.

COUNTY and BA desire to facilitate the billing and/or transfer of protected health information (PHI), as defined in 45 CFR, Section 164.504, by electronically transmitting and receiving data in agreed formats and to assure that such transactions comply with relevant laws and regulations.

1. Definitions

Terms used, but not otherwise defined, in this Exhibit shall have the same meaning as those terms used in the Privacy Rule.

1.1 **"Business Associate" (BA)** shall mean CONTRACTOR as identified in this Agreement.

1.2 **"Covered Entity"** shall mean Stanislaus County, Behavioral Health and Recovery Services (COUNTY).

1.3 **"Individual"** shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

1.4 **"Privacy Rule"** shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

1.5 **"Protected Health Information" (PHI)** shall have the same meaning as the term "protected health information" in 45 CFR, Section 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

1.6 **"Security Rule"** shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR part 164, Subpart C.

1.7 **"Physical Safeguards"** are physical measures, policies, and procedures to protect a covered entity's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

1.8 **"Security or Security Measures"** encompass all of the administrative, physical, and technical safeguards in an information system.

1.9 **"Security Incident"** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

2. Operations

2.1 **Document Standards.** Each party may transmit to, or receive from, the other party, either electronically or using other media, PHI and/or individually identifiable health information, as defined in 42 U.S.C., Section 1320d, as it pertains to the provision of services under this Agreement. All documents shall be transmitted in accordance with the standards set forth in the Behavioral Health and Recovery Services Privacy Policy.

2.2 **System Operations.** Each party, at its own expense, shall provide and maintain the equipment, software, services, and testing necessary to effectively, reliably, and confidentially transmit and receive documents.

3. Electronic Transmissions

Documents shall not be deemed to have been properly received, and no document shall give rise to any

obligation, until decrypted and accessible to the receiving party at such party's receipt counter as designated by regulation or policy.

4. Security Standards

4.1 BA shall ensure the implementation of safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits.

4.2 BA shall ensure that any agent, including a subcontractor, to whom it provides this information agrees to implement reasonable and appropriate safeguards;

4.3 BA is required to report to the covered entity any security incident of which it becomes aware.

4.4 BA shall make its policies and procedures, and documentation required by the Security Rule relating to such safeguards, available to the Secretary for purposes of determining the covered entity's compliance with the regulations.

4.5 Covered entity may terminate the contract if the covered entity determines that the BA has violated a material term of the contract.

5. Use and Disclosure of Protected Health Information

5.1 Except as otherwise provided in this Business Associate Exhibit, BA may use or disclose PHI to perform functions, activities or services for or on behalf of the COUNTY, as specified in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by the COUNTY or the minimum necessary policies and procedures of the COUNTY.

5.2 Except as otherwise limited in this Business Associate Exhibit, BA may use and disclose PHI for the proper management and administration of the BA or to carry out the legal responsibilities of the BA, provided that disclosures are required by law, or BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the BA of any instances of which it is aware in which the confidentiality of the information has been breached.

5.3 Except as otherwise limited in this Business Associate Exhibit, BA may use PHI to provide data aggregation services related to the health care operation of COUNTY.

5.4 BA shall not use or further disclose PHI other than as permitted or required by this Business Associate Exhibit, or by law.

5.5 BA will promptly report, in writing, to COUNTY any use or disclosure of a PHI not provided for by this Exhibit within seven (7) days of the time BA becomes aware of such use or disclosure, pursuant to 45 CFR, Section 164.528.

5.6 BA shall document such disclosure of PHI and information related to such disclosures as would be required for the COUNTY to respond to a request by an individual for an accounting of disclosures of PHI in accordance with Title 45, CFR, Section 164.528.

5.7 BA shall provide to COUNTY or an individual, within seven (7) days, information collected in accordance with Title 45, CFR, Section 164.528, to permit COUNTY to respond to a request by the individual for an accounting of disclosures of PHI in accordance with Title 45, CFR, Section 164.528.

6. Agents and Subcontractors of BA

BA shall ensure that any agent, including subcontractor, to which the BA provides PHI received from, or created or received by BA on behalf of the COUNTY, shall comply with the same restrictions and conditions that apply through this Business Associate Exhibit to the BA with respect to such information.

7. Access to PHI

7.1 BA shall provide access, within seven (7) days of such a request, to the COUNTY or, as directed by the COUNTY, to PHI in a designated record set to an individual in order to meet the requirements of Title 45, CFR, Section 164.524.

7.2 BA shall, within seven (7) days of such a request, provide individual patient or their legal representative with access to PHI contained in BA's records, pursuant to 45 CFR, Section 164.504 (e)(2)(F).

8. Amendment(s) to PHI

BA shall make any amendment(s) to PHI in a designated record set that the COUNTY directs or at the request of the COUNTY or an individual within seven (7) days of such request in accordance with Title 45, CFR, Section 164.526.

9. Records Available

BA shall make its internal practices, books, and records related to the use, disclosure, and privacy protection of PHI received from the COUNTY, or created or received by the BA on behalf of the COUNTY, available to the COUNTY or to the Secretary of HHS for purposes of the Secretary determining compliance with the Privacy Rule, in a time and manner designed by the COUNTY or the Secretary of HHS.

10. Retention, Transfer and Destruction of Information

10.1 Upon termination of this Agreement for any reason, BA shall retain all PHI received from the COUNTY, or created or received by the BA on behalf of the COUNTY in a manner that complies with the Privacy Rule. This provision shall apply to PHI in possession of subcontractors or agents of the BA.

10.2 Prior to termination of this Agreement, the BA may be required by the COUNTY to provide copies of PHI to the COUNTY. This provision shall apply to PHI in possession of subcontractors or agents of the BA.

10.3 When the retention requirements on termination of the Agreement have been met, BA shall destroy all PHI received from the COUNTY, or created or received by the BA on behalf of the COUNTY. This provision shall apply to PHI in possession of subcontractors or agents of the BA. BA, its agents or subcontractors shall retain no copies of the PHI.

10.4 In the event that BA determines that returning or destroying the PHI is not feasible, BA shall provide the COUNTY notification of the conditions that make destruction infeasible. Upon mutual agreement of the parties that the destruction of the PHI is not feasible, BA shall extend the protections of this Business Associate Exhibit to such PHI and limit further use and disclosures of such PHI for so long as BA, or any of its agents or subcontractors, maintains such PHI.

11. Force Majeure

No party shall be liable for any failure to perform its obligations in connection with any transaction or any document where such failure results from any act of nature or other cause beyond such party's reasonable control (including, without limitation, any mechanical, electronic, or communications failure) that prevent such party from transmitting or receiving any documents.

12. Limitation of Damages

Other than specified in elsewhere, neither party shall be liable to the other for any special, incidental, exemplary, or consequential damages arising from or as a result of any delay, omission, or error in the electronic transmission or receipt of any documents pursuant to this Agreement, even if either party has been advised of the possibility of such damages.

13. Attorney-Client Privilege

Notwithstanding the foregoing, no attorney-client, accountant-client, or other legal privilege shall be deemed waived by BA or COUNTY by virtue of this Subparagraph.

14. Interpretation

Any ambiguity in this Business Associate Exhibit shall be resolved to permit the COUNTY to comply with the Privacy Rule and Security Standards.

2009-647 # E1

09/29/09

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
BOARD OF SUPERVISORS

2010 DEC 10 P 12: 01

This Amendment is made and entered into on October 15, 2009, in the City of Modesto, State of California, by and between the County of Stanislaus ("COUNTY") and John G. Ott and Associates ("CONSULTANT").

WHEREAS, the COUNTY has a need for further professional training and consultation services related to the Mental Health Services Act (MHSA) and to include Prevention and Early Intervention (PEI) planning and program implementation; and

WHEREAS, the CONSULTANT is specially trained, experienced and competent to perform and has agreed to provide such services.

NOW, THEREFORE, Effective October 15, 2009, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree that the Agreement entered into on July 1, 2009 is amended to increase the contract maximum amount by \$96,000, from \$60,000 to \$156,000. This Amendment is incorporated into the agreement as follows:

- 1. Delete Exhibit A, Section A, Scope of work in its entirety, and replace it with the following:

A. SCOPE OF WORK

CONSULTANT shall provide professional training and consultation services related to the Mental Health Services Act (MHSA) planning and program implementation with a focus on community integration. CONSULTANT's services shall consist of, but not be limited to the following activities:

- 1. Training and technical assistance related to community development, leadership development, community capacity building, Results-Based Accountability systems and planning, including:
 - 1.1 Participation and facilitation of Department meetings involving leadership staff and others, focused on MHSA principles and their relationship to Department initiatives in order to develop methods of community involvement and community capacity for service provision;
 - 1.2 Training and support in development of a community-based plan for service integration and MHSA PEI Plan implementation. This may include meetings including community members, consumers, and Department staff;
 - 1.3 Training for Department staff in aligning community integration, program and community evaluation and budget planning with MHSA Prevention and Early Intervention planning; and

- 1.4 Review and production of documents related to the above.

2. Delete Exhibit A, Section C, Deliverables in its entirety, and replace it with the following:

C. DELIVERABLES

CONSULTANT's deliverables include but are not limited to the following:

1. Individual and group training sessions focused on leadership development with Department managers July 2009 through June 2010.
2. Sixteen (16) Senior Leadership and Department manager training days upon request and mutual agreement in terms of content and date during the term of this Agreement. Training will include but not be limited to Results Based Accountability methods and follow up.
3. A multi-session training for community stakeholders focused on community capacity-building and related leadership skills, including consultation for developing strategic community partnerships and coaching for community members to ensure skill mastery.
4. Assist with development of materials focused on educating stakeholders in community development principles and Department-specific community integration planning process, including MHSA Prevention and Early Intervention Plan implementation during the term of this Agreement. Such materials may include but are not limited to development of theory of change maps for PEI programs, contracts for PEI providers, job descriptions for community capacity development staff and contractors, documents summarizing agreements and recommendations for project-specific work.
5. Provide two to three training sessions for staff and facilitators and one orientation session for community delegates between October, 2009 and April, 2010 related to Department-specific community integration, PEI, and MHSA Innovation planning process.
6. Regular consultation at mutually agreed-upon times by telephone or in person with Senior Leadership and other BHRS staff related to implementation of community integration planning processes, PEI Plan implementation, and MHSA Innovation planning processes, up to twice weekly over the contract period.

3. Delete Exhibit A, Section D, Compensation, Item 1, and replace with the following:

D. COMPENSATION

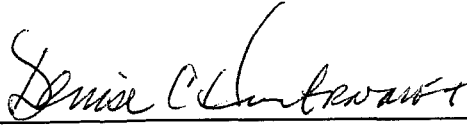
1. CONSULTANT shall be compensated at all-inclusive rate of \$225 per hour for services provided under this Agreement. Total amount of payments shall not exceed \$ 156,000.

4. All other terms and conditions of said Agreement shall remain in full force and effect

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

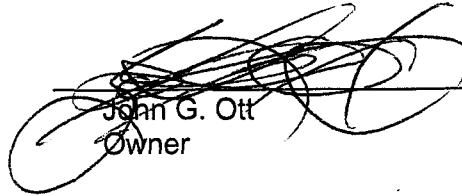
**COUNTY OF STANISLAUS
BEHAVIORAL HEALTH AND
RECOVERY SERVICES**

JOHN G. OTT AND ASSOCIATES



Denise C. Hunt, RN, MFT
Behavioral Health Director

"COUNTY"

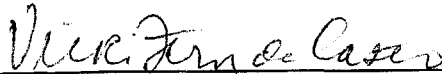


John G. Ott
Owner

"CONSULTANT"

APPROVED AS TO FORM:

COUNTY COUNSEL
JOHN P. DOERING



Vicki Fern de Castro
Deputy County Counsel

BOS Action Item: 2009-647

Date: September 29, 2009