

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

DEPT: Behavioral Health & Recovery Services

BOARD AGENDA:5.B.23  
AGENDA DATE: June 26, 2018

**SUBJECT:**

Approval to Enter into an Agreement with Vista Pacifica Enterprises, Inc. for Services to Adults with Serious Mental Illness

**BOARD ACTION AS FOLLOWS:**

**RESOLUTION NO. 2018-0333**

On motion of Supervisor Chiesa Seconded by Supervisor Olsen  
and approved by the following vote,

Ayes: Supervisors: Olsen, Chiesa, Monteith, and Vice-Chairman Withrow

Noes: Supervisors: None


Excused or Absent: Supervisors: Chairman DeMartini

Abstaining: Supervisor: None

- 1)  Approved as recommended
- 2)  Denied
- 3)  Approved as amended
- 4)  Other:

**MOTION:**

ATTEST:

  
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
AGENDA ITEM**

DEPT: Behavioral Health & Recovery Services

BOARD AGENDA:5.B.23  
AGENDA DATE: June 26, 2018

CONSENT:

CEO CONCURRENCE: YES

4/5 Vote Required: No

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**SUBJECT:**

Approval to Enter into an Agreement with Vista Pacifica Enterprises, Inc. for Services to Adults with Serious Mental Illness

**STAFF RECOMMENDATION:**

1. Approve the agreement with Vista Pacifica Enterprises, Inc. for Services to Adults with Serious Mental Illness.
2. Authorize the Behavioral Health Director, or his designee, to sign the agreement with Vista Pacifica Enterprises, Inc.
3. Authorize the Behavioral Health Director, or his designee, to negotiate and sign amendments to the agreement when necessary to modify services and adjust payment for services, up to \$75,000 and budget permitting, throughout Fiscal Year 2018-2019.

**DISCUSSION:**

Stanislaus County Behavioral Health and Recovery Services (BHRS) historically contracts with several providers of care for adults with serious mental illness. BHRS has a legal and ethical responsibility for ensuring that individuals are placed in the least restrictive and most appropriate level of care. These services include structured programming, which assists residents in improving functional abilities. The programming includes, but is not limited to, continuous supervision and rehabilitative services designed to improve self-help skills, behavioral adjustments, interpersonal relationships, prevocational preparation and alternative placement planning.

The Department continues to experience an increased demand for clients who are in need of secure placements in Institutions for Mental Disease (IMD). An IMD is a locked facility that provides services at a less intensive level of care than a State Hospital. Additionally, Stanislaus County is experiencing a shortage of Board and Care beds, which are a step-down option for individuals in IMDs. This shortage is something that is impacting all counties on a statewide basis. As a result, individuals are being kept in IMDs longer than anticipated, thus increasing the capacity need in IMDs.

Treatment and housing options for individuals with severe mental illness are very limited and are often not readily available. Individuals who have been placed in an acute

psychiatric hospital and are ready to be discharged to a lower level of care have often needed to stay in the hospital due to the shortage of IMD beds, thus resulting in more costly care. These individuals often remain in the more expensive, acute psychiatric hospital 14-60 days awaiting appropriate placement. With limited IMD beds available statewide, the Department continues to compete with other counties for the same lower level of care beds.

Recently, several facilities that have traditionally not accepted clients outside of their respective counties, have had bed openings and have been willing to accept Stanislaus County clients needing this level of care. These openings have enabled the Department to transfer those individuals who were awaiting discharge from the acute psychiatric hospital to the level of care they needed. Vista Pacifica Enterprises Inc., dba Vista Pacifica Center and Vista Pacifica Convalescent is a facility with IMD beds available to meet this need in both Jurupa Valley and Riverside California.

As defined under General Services Agency (GSA) Purchasing Guidelines, these agreements do not meet the requirements for issuance of a Request for Proposal and can be executed as negotiated agreements. These agreements serve to ensure a contracted negotiated rate with multiple IMD facilities to address the continued increase in the number of residents requiring secured placement in such facilities.

BHRS experiences occasional funding opportunities and unanticipated increases in service levels throughout the year. On many occasions, such additional funding and the need for increase in service levels is time sensitive. For this reason, the Department requests authorization for the Behavioral Health Director, or designee, to negotiate and execute amendments, when necessary, up to \$75,000 per fiscal year to the agreement contained in this agenda item. Any amendments to the agreement will be identified in subsequent quarterly financial reports to the Board of Supervisors.

**POLICY ISSUE:**

Board of Supervisors approval is required for any contract or agreement wherein the total cumulative compensation exceeds \$100,000. Cumulative refers to the total compensation paid by an individual department in the reporting year and the two fiscal years immediately prior thereto, where there has been no break in contractual services over six months.

**FISCAL IMPACT:**

The agreement with Vista Pacifica Enterprises Inc. for the provision of adult residential mental health services will be funded by 1991 Realignment. Appropriations and estimated revenue in the amount of \$760,000 was included in the BHRS Fiscal Year 2018-2019 Adopted Proposed Budget. There is no impact to the County General Fund.

**BOARD OF SUPERVISORS' PRIORITY:**

The recommended actions are consistent with the Boards' priority of *Supporting Community Health*, and *Delivering Efficient Public Services and Community Infrastructure* by contracting with a community provider to deliver the needed services at an appropriate level of care in a cost effective manner.

**STAFFING IMPACT:**

The agreement will be facilitated by existing BHRS staffing resources. There is no additional staffing impact associated with the approval of this agenda item.

**CONTACT PERSON:**

Cherie Dockery                      Associate Director, BHRS                      209-525-6225

**ATTACHMENT(S):**

1. Vista Pacifica Enterprises, Inc. Agreement

**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 Vista Pacifica Enterprises, Inc. dba Vista Pacifica Center and Vista Pacifica Convalescent, ("Contractor").

**Recitals**

WHEREAS, the County has a need for services involving providing care for adults with serious mental illness and is in need of a secure skilled nursing facility and an institution for mentally diseased clients; 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**.

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 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

Coverage Required: Contractor shall obtain, and maintain at all times during the term of this Agreement, insurance coverage in the amounts and coverage specified in the attached "Exhibit B."

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. As a business associate, Contractor agrees to comply with all privacy and information security terms set forth in the attached Business Associate Exhibit, incorporated into this Agreement.



11. Non-Discrimination

11.1 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, religious creed, color, national origin, ancestry, physical or mental disability including perception of disability, medical condition, genetic information, pregnancy related condition, marital status, gender/sex, sexual orientation, gender identity, gender expression, age (over 40), political affiliation or belief, or military and veteran status. 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 non-discrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, and 1102; 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.

11.2 Contractor shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

11.3 Contractor shall provide a system by which recipients of service shall have the opportunity to express and have considered their views, grievances, and complaints regarding Contractor's delivery of services.

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 of 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  
ATTN: Contract Services Manager  
800 Scenic Drive  
Modesto, CA 95350

To Contractor:

Vista Pacifica  
3674 Pacific Ave.  
Jurupa Valley, CA 92509  
951-682-4833 ext 106

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.

[SIGNATURES SET FORTH ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this Agreement on the date(s) shown below.

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

**Vista Pacifica Enterprises, Inc.**

*Cherie Decker, LCSW for*

*Rick DeGette, MA, MFT 6-29-18*

Rick DeGette, MA, MFT  
Director

Date

Cheryl Jumonville  
President

Date

APPROVED AS TO FORM  
John P. Doering, County Counsel

*Marc Hartley*

Marc Hartley  
Deputy County Counsel

BOS Action Item: 2018-0333, June 26, 2018

IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this Agreement on the date(s) shown below.

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

**Vista Pacifica Enterprises, Inc.**

\_\_\_\_\_  
Rick DeGette, MA, MFT  
Director Date

\_\_\_\_\_  
  
Cheryl Jumonville  
President Date 4/9/18

APPROVED AS TO FORM  
John P. Doering, County Counsel

\_\_\_\_\_  
Marc Hartley  
Deputy County Counsel

BOS Action Item: \_\_\_\_\_, \_\_\_\_\_

## VISTA PACIFICA CENTER

## A. IMD SERVICES

1. Contractor shall have the capacity of providing the following services, however, services provided to individual clients will be dependent upon the client's specific needs:
  - 1.1. Self Help Skills Training – This shall include but not be limited to:
    - 1.1.1. Personal care and use of medication
    - 1.1.2. Money Management
    - 1.1.3. Use of public transportation
    - 1.1.4. Use of community resources
    - 1.1.5. Behavioral control and impulse control
    - 1.1.6. Frustration tolerance
    - 1.1.7. Mental Health education
    - 1.1.8. Physical fitness
  - 1.2. Behavioral Intervention Training – This shall include but not be limited to:
    - 1.2.1. Behavior modification modalities
    - 1.2.2. Re-motivation therapy
    - 1.2.3. Patient government activities
    - 1.2.4. Group counseling
    - 1.2.5. Individual counseling
  - 1.3. Interpersonal Relationships – This shall include but not be limited to:
    - 1.3.1. Social counseling
    - 1.3.2. Educational and recreational therapy
    - 1.3.3. Social activities such as outings, dances, etc.
  - 1.4. Pre-vocational Preparation Services – This shall include but not be limited to:
    - 1.4.1. Homemaking
    - 1.4.2. Work activity
    - 1.4.3. Vocational counseling
  - 1.5. Pre-Release Planning
    - 1.5.1. Out-of-home placement
2. Services shall be provided in a secure, skilled nursing facility located at 3674 Pacifica Ave, Jurupa Valley, California, 95209, which offers twenty-four (24) hour care and staffing. Contractor shall, in conjunction with County, develop and implement a treatment plan, using resources available to both Contractor and County.
3. Contractor shall work closely and collaboratively with County Case Managers.
4. Contractor shall use its best efforts to facilitate each patient's transfer to a lower level of care, through collaboration with County.
5. Contractor shall submit doctor's declarations to the public guardian's office within three weeks of notification by the public guardian's office, but no later than 45 days prior to the date of the termination of the conservatorship. These services are included in the daily rates described in Section A, Item 6.

6. Reimbursement from the County to the Contractor is based on a maximum rate per bed day for the provision of SNF/IMD/STP services. The County and Contractor agree to the following rates for the period of June 1, 2018, through June 30, 2019, unless adjusted by the State Department of Health Care Services.

Level A	\$60.00/bed day
Level B	\$130.00/bed day
Level C	\$170.000/bed day
Level D	\$150.00/bed day
Bed Hold	\$197.59/bed day
Room Reserve Rate	\$204.94/bed day

7. A minimum average of 27 hours per week of direct group or individual program services will be provided for each patient. In conjunction with the Administrator or designee, Contractor and County will reassess each County patient at least every four (4) months to determine current level of functioning and individual program needs.

## **B. CONVALESCENT SERVICES**

1. Contractor shall provide rehabilitative services to County clients with a primary psychiatric illness, who, as a result of their level of functioning, require placement in a secured mental health setting with Wander Guard System.
2. Contractor shall ensure that County clients receive continuous supervision and rehabilitation services designed to improve self-help skills, behavioral adjustment, interpersonal relationships, and alternative placement planning.
3. Services shall include ancillary, but not be limited to, medical, nursing, nutrition, social, pharmaceutical, laboratory, and psychiatric services.
4. Contractor's personnel shall work closely and collaboratively with County Case Managers.
5. Contractor shall submit doctor's declarations to the public guardian's office within three weeks of notification by the public guardian's office, but no later than 45 days prior to the date of the termination of the conservatorship. These services are included in the daily rates described in Section B, Item 7.
6. Services shall be provided in a secure, convalescent facility located at 3662 Pacifica Ave, Riverside, California, 95209, which offers twenty-four (24) hour care and staffing. Contractor shall, in conjunction with County, develop and implement a treatment plan, using resources available to both Contractor and County
7. Reimbursement from the County to the Contractor is based on a maximum rate per bed day for the provision of Convalescent services. The County and Contractor agree to the following rates for the period of June 1, 2018, through June 30, 2019, unless adjusted by the State Department of Health Care Services.

Level A	\$60.00/bed day
Level B	\$130.00/bed day
Level C	\$170.000/bed day
Bed Hold	\$187.62/bed day
Room Reserve Rate	\$195.27/bed day

**C. OUTCOME**

The expected outcome of this program is that of supporting severely mentally ill individuals to function at their highest possible level, and to move them, whenever possible, into less restrictive environments.

**D. BILLING AND PAYMENT**

1. County shall reimburse Contractor for services delivered under the terms of this Agreement from the following funding sources: 1991 Realignment.
2. In consideration of Contractor's provision of services required under this Agreement, County shall reimburse Contractor an amount not to exceed the Contract Maximum of \$760,000.
3. Contractor shall invoice County monthly. County shall make payment for services within thirty (30) days of the date the invoice is received by County. Contractor shall submit an invoice electronically to [abhrs@stanbhrs.org](mailto:abhrs@stanbhrs.org) or by mail to the following address:

Stanislaus County Behavioral Health & Recovery Services (BHRS)  
800 Scenic Dr, Building 4  
Modesto, CA 95350  
Attention: Accounts Payable

**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 June 1, 2018 and continue through June 30, 2019.

**G. DUPLICATE COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.



## EXHIBIT B

### Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

#### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** If the Consultant or the Consultant's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under the Agreement Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.  
(Not required if consultant provides written verification it has no employees)
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Consultant's profession, with limits not less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

#### ***Application of Excess Liability Coverage***

Consultants may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

#### ***Other Insurance Provisions***

The insurance policies are to contain, or be endorsed to contain, the following provisions:

***Additional Insured Status***

The County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL and the Auto policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability and Auto Liability coverage can be provided in the form of an endorsement to the Consultant's insurance (**at least** as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

***Primary Coverage***

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance primary coverage **at least** as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

**Reporting:** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employee's, agents or volunteers.

***Notice of Cancellation***

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the County.**

***Waiver of Subrogation***

Consultant hereby grants to County a waiver of any right to subrogation (except for Professional Liability) which any insurer of said Consultant may acquire against the County by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the County. The County may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

***Acceptability of Insurers***

Insurance is to be placed with California admitted insurers (licensed to do business in California) with a current A.M. Best's rating of no less than A-VII, however, 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 Approved Surplus Line Insurers (LASLI) maintained by the California Department of Insurance.

***Claims Made Policies***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for **at least five (5)** years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

***Verification of Coverage***

Consultant shall furnish the County with a copy of the policy declaration and endorsement page(s), original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All **certificates and endorsements are to be received and approved by the County before work commences**. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Subcontractors***

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that County is an additional insured on insurance required from subcontractors.

***Special Risks or Circumstances***

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Insurance Limits***

The limits of insurance described herein shall not limit the liability of the Consultant and Consultant's officers, employees, agents, representatives or subcontractors. Consultant's obligation to defend, indemnify and hold the County, its officers, officials, employees, agents and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in the Agreement for Consultant to procure and maintain a policy of insurance.

[SIGNATURES SET FORTH ON THE FOLLOWING PAGE]

\_\_\_\_\_ Exempt from Auto – I will not utilize a vehicle in the performance of my work with the County.

\_\_\_\_\_ Exempt from WC – I am exempt from providing workers' compensation coverage as required under section 1861 and 3700 of the California Labor Code.

I acknowledge the insurance requirements listed above.

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Vendor Name: \_\_\_\_\_

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*For CEO-Risk Management Division use only*

Exception: N/A

Approved by CEO-Risk Management Division: *Ramon White* Date: 3/27/2018

## BUSINESS ASSOCIATE EXHIBIT

Business Associate (BA) shall comply with the privacy and security requirements of Title II of the Health Insurance Portability and Accountability Act of 1996, (Public Law 104-191), also known as "HIPAA", and Title XIII of the American Recovery and Reinvestment Act of 2009, (Public Law 111-5), "the ARRA/HITECH Act" or "the HITECH Act", as these laws may be subsequently amended, and implementing regulations enacted by the Department of Health and Human Services at 45 CFR Parts 160-164, and, regulations enacted with regard to the HITECH Act. The foregoing laws and rules are sometimes collectively referred to hereafter as "HIPAA".

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 defined in the HIPAA and HITECH Statutes and Regulations.

1.1 **"Breach"** shall mean the unauthorized acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information.

1.1.1 **Exceptions.** The term "Breach" does not include:

1.1.1.1 Any unintentional acquisition, access, or use of protected health information by an employee or individual acting under the authority of a covered entity or business associate if such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with the covered entity or business associate; and such information is not further acquired, accessed, used, or disclosed by any person; or

1.1.1.2 Any inadvertent disclosure from an individual who is otherwise authorized to access protected health information at a facility operated by a covered entity or business associate to another similarly situated individual at same facility; and

1.1.1.3 Any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed without authorization by any person.

1.2 **"Business Associate" (BA)** shall mean Contractor as identified in this Agreement.

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

1.4 **"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).

1.5 **"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.

1.6 **"Protected Health Information" (PHI)** shall have the same meaning as the term "protected health information" in 45 CFR, Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

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

1.8 **"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.

1.9 **“Security or Security measures”** encompass all of the administrative, physical, and technical safeguards in an information system.

1.10 **“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.

## 6. Breach Reporting

6.1 During the term of the agreement, BA shall notify County, in writing, within five (5) business days of the discovery of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which the BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws and regulations. A breach shall be treated as discovered by the BA as of the

first day on which such breach or suspected breach is known to the BA (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of the BA) or should reasonably have been known to the BA to have occurred. BA shall take (a) prompt corrective action to cure any Breach, (b) investigate or fully participate in an investigation of the suspected or actual breach of security, (c) assist the County in compliance with the Notification in The Case Of Breach requirements of Section 13402 of the HITECH Act, and (d) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Notification of Breach shall be made to:

**BHRS Privacy Officer  
Behavioral Health and Recovery Services  
800 Scenic Drive  
Modesto, CA 95350  
(209) 525-6225**

6.2 Reports of suspected and actual breaches to County shall include the following, at a minimum:

- a. Identify each individual whose unsecured protected health information has been, or is reasonably believed by BA to have been, accessed, acquired, used, or disclosed during the breach.
- b. Identify the nature of the Breach.
- c. Identify the date of the Breach.
- d. Identify the date of discovery of the Breach.
- e. Identify which elements of PHI were breached or were part of the Breach.
- f. Identify who was responsible for the Breach and who received the PHI.
- g. Identify what corrective actions the BA took or will take to prevent further incidents of Breach.
- h. Identify what BA did or will do to mitigate any adverse affects of the Breach.
- i. Identify BA contact individual and information for County to obtain additional information, if required.
- j. Provide copies of any Individual Notice, Media Notice, Notice to Secretary, or Posting on HHS Public Website that BA may have made pursuant to the HITECH Act.
- k. Provide such other information as County may reasonably request regarding the Breach.

## **7. 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.

## **8. Access to PHI**

8.1 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.

8.2 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).

## **9. 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.

## **10. 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.-

## **11. Retention, Transfer and Destruction of Information**

11.1 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.

11.2 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.

11.3 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.

11.4 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.

## **12. 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.

## **13. 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.

## **14. Continuing Privacy and Security Obligation**

BA's obligation to protect the privacy and security of the PHI, including all copies and any data derived this Agreement that may be individually identifiable, shall be continuous and survive termination, cancellation, expiration or other conclusion of the Agreement.

## **15. 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.

## **16. Interpretation**

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