



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Health System



DATE: June 3, 2011
BOARD MEETING DATE: June 28, 2011
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Jean S. Fraser, Chief, Health System
Brian Zamora, Director, Family Health Services
Stephen Kaplan, Interim Director, Behavioral Health and Recovery Services

SUBJECT: Agreements with Vilma Andari and Fernando Jauregui

RECOMMENDATION:

Adopt a Resolution:

- A) Waiving the Request for Proposals process and authorizing the President of the Board to execute Agreements with Vilma Andari and Fernando Jauregui for Shapedown services, for the term July 1, 2011 through June 30, 2012, for a maximum obligation of \$221,800; and
- B) Authorizing the Chief of the Health System or designee to execute contract amendments which modify the County's maximum fiscal obligation by no more than \$25,000 (in aggregate), and/or modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions.

BACKGROUND:

San Mateo County ranks poorly in the State on prevalence of obesity among low-income children. According to the 2009 Pediatric Nutrition Surveillance System Data (PedNSS), 46% of low-income children 5-19 years of age are overweight or obese; among the Hispanic population, the prevalence rises to 49%.

Shapedown is an 8-week family-based weight management program developed at the University of California, San Francisco designed to promote healthy eating and exercise habits for children, teens and their families. In collaboration with the Health Plan of San Mateo (HPSM), San Mateo County Health System has been providing Shapedown services to English-speaking Medi-Cal families since March 2000. In 2008 HPSM secured a grant to translate the Shapedown curriculum into Spanish. In May 2009 HPSM and the County began offering Spanish Shapedown group sessions throughout San Mateo County. In May 2011 Behavioral Health and Recovery Services (BHRS) added weight management services for its adult clients.

DISCUSSION:

From 2000 through 2008, 288 English-speaking children and their families participated in Shapedown groups and/or individual counseling sessions. Since offering the Shapedown program to Spanish-speaking families in May 2009, 574 children and families have participated in the group or individual counseling. The program has expanded from two certified instructors to five, two of whom are bilingual and bi-cultural.

Family Health Services (FHS) requests a waiver of the Request for Proposals (RFP) requirement for Vilma Andari and Fernando Jauregui to provide Shapedown services because these are the only two trained bilingual contractors available.

The Agreements and Resolution have been reviewed and approved by County Council. The Contractors' insurance has been reviewed and approved by Risk Management.

The Contractors have assured compliance with the County's Employee Jury Service Ordinance, as well as all other contract provisions that are required by County ordinance and administrative memoranda, including but not limited to insurance, hold harmless, non-discrimination, equal benefits.

The Agreement contributes to the Shared Vision 2025 outcome of a Healthy Community by supporting the Shapedown Program which promotes dietary changes and physical activity levels in order to reduce the risk of chronic disease. It is anticipated that 62% of the children participating in Shapedown will exhibit a decrease in Body Mass Index (BMI)-for-age percentile.

Performance Measure:

Measure	FY 2010-11 Estimate	FY 2011-12 Projected
Percent of children participating in Shapedown group sessions who exhibit a decrease in BMI-for-age percentile	60%	62%

FISCAL IMPACT:

The term of these Agreements is July 1, 2011 through June 30, 2012. The total combined amount of these Agreements is \$221,800. Family Health Services maximum obligation of \$101,800 is reimbursed 100% by Health Plan of San Mateo for Vilma Andari. The maximum obligation for Fernando Jauregui is \$120,000. Family Health Services maximum obligation of \$100,000 is 100% reimbursed by Health Plan of San Mateo for Fernando Jauregui. Behavioral Health and Recovery Services maximum obligation of \$20,000 is 100% funded by the Mental Health Services Act for Fernando Jauregui. There is no Net County Cost. These revenues and expenditures are included in the FHS and BHRS tentatively Adopted FY 2011-12 Budget for both divisions.

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

RESOLUTION: A) WAIVING THE REQUEST FOR PROPOSALS PROCESS AND AUTHORIZING THE PRESIDENT OF THE BOARD TO EXECUTE AGREEMENTS WITH VILMA ANDARI AND FERNANDO JAUREGUI FOR SHAPEDOWN SERVICES, FOR THE TERM JULY 1, 2011 THROUGH JUNE 30, 2012, FOR A MAXIMUM OBLIGATION OF \$221,800; AND B) AUTHORIZING THE CHIEF OF THE HEALTH SYSTEM OR DESIGNEE TO EXECUTE CONTRACT AMENDMENTS WHICH MODIFY THE COUNTY'S MAXIMUM FISCAL OBLIGATION BY NO MORE THAN \$25,000 (IN AGGREGATE), AND/OR MODIFY THE CONTRACT TERM AND/OR SERVICES SO LONG AS THE MODIFIED TERM OR SERVICES IS/ARE WITHIN THE CURRENT OR REVISED FISCAL PROVISIONS.

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, Ordinance Code Section 2.83.170 authorizes the Board of Supervisors to waive the Request for Proposals process in any situation where the Board of Supervisors determines that the best interest of the County could be served without the necessity of proposals; and

WHEREAS, this Board has been asked to waive the Request for Proposals processes to select a provider of Shapedown services; and

WHEREAS, this Board has determined that it is in the best interest of the County to waive the Request for Proposals processes; and

WHEREAS, there has been presented to this Board of Supervisors for its consideration and acceptance an Agreement, reference to which is hereby made for

further particulars, whereby Vilma Andari and Fernando Jauregui will provide Shapedown services for the period of July 1, 2011 through June 30, 2012, for a total obligation of \$221,800; and

WHEREAS, this Board has examined and approved the Agreements as to form and content and desires to enter into the Agreement.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the County requirement for the Request for Proposals process to select providers of Shapedown services for said Agreements is hereby waived.

BE IT FURTHER RESOLVED that the President of this Board of Supervisors be and is hereby authorized and directed to execute said Agreements for and on behalf of the County of San Mateo, and the Clerk of this Board shall attest the President's signature thereto.

BE IT FURTHER RESOLVED that the Chief of the Health System or designee is authorized to execute contract amendments which modify the County's maximum fiscal obligation by no more that \$25,000 (in aggregate), and/or modify the contract term and/or services so long as the modified term of services is/are within the current or revised fiscal provisions.

* * * * *

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
FERNANDO JAUREGUI**

THIS AGREEMENT, entered into this ____ day of _____, 20____,
by and between the COUNTY OF SAN MATEO, hereinafter called "County," and Fernando
Jauregui, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract
with independent contractors for the furnishing of such services to or for County or any
Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose
of providing Shapedown services

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO
AS FOLLOWS:**

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference
herein:

- Exhibit A—Services
- Exhibit B—Payments and rates
- Attachment I—§504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit “B,” Contractor shall
perform services for County in accordance with the terms, conditions and specifications set
forth herein and in Exhibit “A.”

3. Payments

In consideration of the services provided by Contractor in accordance with all terms,
conditions and specifications set forth herein and in Exhibit "A," County shall make payment
to Contractor based on the rates and in the manner specified in Exhibit "B." The County
reserves the right to withhold payment if the County determines that the quantity or quality
of the work performed is unacceptable. In no event shall the County’s total fiscal obligation
under this Agreement exceed ONE HUNDRED TWENTY THOUSAND DOLLARS
(\$120,000).

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2011 through June 30, 2012.

This Agreement may be terminated by Contractor, the Chief of the Health System or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the County learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County’s prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. The Contractor shall furnish the County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the County of any pending change in the limits of liability or of any cancellation or modification of the policy.

(1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

(2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

- (a) Comprehensive General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. Further, Contractor certifies that the Contractor and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *Section 504 applies only to Contractor who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.

- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
 - i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;
 - iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

12. Compliance with Contractor Employee Jury Service Ordinance

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employees' regular pay the fees received for jury service.

13. Retention of Records, Right to Monitor and Audit

(a) CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

(c) CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

14. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

15. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or the United States District Court for the Northern District of California.

16. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when both (1) transmitted via facsimile to the telephone number listed below and (2) either deposited in the United States mail, postage prepaid, or when deposited for overnight delivery with an established overnight courier that provides a tracking number showing confirmation of receipt for transmittal, charges prepaid, addressed to:

In the case of County, to:
San Mateo County Health System
Family Health Services
2000 Alameda de las Pulgas, Suite 200
San Mateo, CA 94403

In the case of Contractor, to:
Fernando Jauregui
760 Bair Island Road #201
Redwood City, CA 94063

In the event that the facsimile transmission is not possible, notice shall be given both by United States mail and an overnight courier as outlined above.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

Fernando Jauregui

Contractor's Signature

Date: _____

Exhibit “A”

In consideration of the payments set forth in Exhibit “B”, Contractor shall provide the following services:

A. Family Health

In consideration of the payment provided under this Agreement, Contractor shall provide the following services:

1. Complete the SHAPEDOWN Pediatric Obesity Introductory Clinical and Advanced Clinical Videocourse Training within three (3) months of receiving training materials (DVDs and course syllabus).
2. Perform initial family assessments (separate from the group session) for HPSM members (Medi-Cal, Healthy Families, or Healthy Kids) referred utilizing the Shapedown assessment form. There will be up to two (2) visits per family for the assessment. The first (1st) will be one-and-one-half (1.5) hours; the second (2nd) will be one (1) hour. Contractor will refer families for SHAPEDOWN group treatment if appropriate. Contractor will maintain charts with complete documentation of services, assessments and care plan utilizing the NutraHealth Food/Interneer Patient Health Information Tracking System (PHITS);
3. Conduct SHAPEDOWN groups of eight (8) two and one half (2.5) hour sessions. In cooperation with co-leader, arrange for all needed handouts, materials, and nutritious snacks, maintain participation records of group participants, and lead each session;
4. Provide up to five (5) one (1) hour individualized family nutrition education counseling sessions as appropriate for families that are not referred to SHAPEDOWN groups;
5. Perform a one and one quarter (1.25) hour follow-up assessment (separate from the group session) for families completing the SHAPEDOWN groups or individual counseling;
6. Contractors completing assessments or individual counseling (b., d., and e. outlined above) will provide a summary of the initial and follow-up assessments and group or individual appointments and other data according to guidelines provided by CHDP staff after each eight (8) week group session. The Contractor is required to utilize and incur the monthly database user fee for the PHITS for the purpose of data collection, maintaining participant records, evaluation, and quality assurance. Training on the database will be provided, as necessary;

7. Contractors will receive HPSM member (Medi-Cal, Healthy Families, or Healthy Kids) referrals from HPSM staff, and are required to re-verify member eligibility on a monthly basis with HPSM staff for services to be provided (assessments, groups, or individual counseling) past the month in which the referral was initially received. Contractors are not to provide services to individuals determined by HPSM staff to be ineligible. If a contractor does not verify eligibility prior to providing services, he/she will not be paid for any member determined to be ineligible at the time of service.
8. Collaborate with other SHAPEDOWN practitioners, CHDP staff, and HPSM staff to support appropriate referrals, continued family participation, and adjustments to program design to best serve families;
9. Maintain complete program records including, but not limited to: participant heights, weight, BMI-for-age %, body fat measurements, fitness measures, attendance records, demographics, participant satisfaction questionnaires, and progress reports;
10. Participate in program planning meetings with CHDP and HPSM staff on an as needed basis to ensure program consistency, share materials, and receive administrative updates.

B. Behavioral Health & Recovery Services (BHRS)

In consideration of the payment provided under this Agreement, Contractor shall provide the following services:

1. Develop low-cost, nutritional meal planning and food shopping strategies in collaboration with BHRS consumers, family members, and supportive housing providers;
2. Provide individual and group nutrition counseling and education for consumers with diabetes, for those with obesity, and for those with hypertension and/or hyperlipidemia. Groups shall include:
 - a. Education and counseling regarding diet changes, diet history, and nutritional care plans.
 - b. Develop recipes and menus for people on limited incomes and with minimal kitchen equipment.
 - c. Provide menu planning support and recipe ideas for the consumers in BHRS congregate living programs.
 - d. Assist consumers with incorporating healthy eating strategies and nutritional goals into their Wellness and Recovery Action Plans.

3. Develop, implement, and run 2-weekly nutrition group classes (one at Central County BHRS and one at South County BHRS) for people with serious mental illness and/or co-occurring substance abuse issues that will introduce foods and recipes that are culturally responsive and emphasize the relationship between diet, exercise, and other behaviors. Groups will emphasize peer support, seeking to create a peer support network around diet and nutrition;
4. Train Peer Wellness Coaches on nutrition related matters to support consumers' nutrition goals;
5. Provide consultation to Total Wellness staff to support consumers' nutrition goals;
6. Acquire and/or develop nutrition education materials for a seriously mentally ill population.

Exhibit “B”

In consideration of the services provided by Contractor in Exhibit “A”, County shall pay Contractor based on the following fee schedule:

A Family Health

In consideration of the services provided by Contractor, County shall pay Contractor based on the following fee schedule:

1. Initial Comprehensive Family Assessment: Contractor shall be paid ONE HUNDRED FOURTEEN DOLLARS (\$114) for conducting the first one and one half (1.5) hour visit and SEVENTY SIX DOLLARS (\$76) for conducting the second one (1.0) hour initial assessment visit. These assessments are to be conducted as an appointment separate from the group session.
2. Follow-up Family Assessment: Contractor shall be paid NINETY FIVE DOLLARS (\$95) for conducting each one-and-one-quarter (1.25) hour follow-up family assessment. The assessment is to be conducted as an appointment separate from the group session.
3. Individual Family Nutrition Education: Contractor shall be paid FIFTY-FIVE DOLLARS (\$55) per hour for providing individualized nutrition education not to exceed five (5) hours per family.
4. Group Session: Contractor shall be paid TWO HUNDRED AND TWENTY FIVE DOLLARS (\$225) per 2.5 hour session, not to exceed \$1800 per eight week group. Contractor must be present at session in order to bill for the session.
5. Services outlined in Section II. A., items 1-4, are distinct services. At no time shall one distinct service be scheduled to overlap with a second service. Contractor will not be reimbursed for two services provided in the same time slot as it is against Medi-Cal rules.
6. Contractor shall submit receipts or other documentation of expenditure as may be required by the County along with an invoice to County for payment. Contractors utilizing the PHITS will have the monthly user fee of FORTY EIGHT DOLLARS (\$48) deducted from the monthly invoice. NOTE: Reimbursement for snack items will follow guidelines outlined by CHDP nutritionist.
7. Send invoices monthly to San Mateo County Health System/Family Health Services, Attention: Yvette Rivas Bedrosian, CHDP Program, 2000 Alameda de las Pulgas, San Mateo CA 94403.

8. County anticipates revenues from Health Plan of San Mateo to be used to fund services provided by Contractor through this Agreement. Should actual revenues be less than the amounts anticipated for any period of this Agreement, the maximum payment obligation and/or payment obligation for specific services may be reduced at the discretion of the Health System Chief or designee.
9. The County will reimburse the Contractor within thirty days (30) days of approval of invoice with all necessary documentation as determined by the County, or whenever such funding becomes available through Health Plan of San Mateo (HPSM).
10. For services delivered to Family Health under this Agreement, County's total fiscal obligation shall not exceed ONE HUNDRED THOUSAND DOLLARS (\$100,000).

B Behavioral Health & Recovery Services (BHRS)

In consideration of the services provided by Contractor in section I.B. of this Exhibit A County shall pay Contractor based on the following fee schedule:

1. Initial Comprehensive Individual Assessment: Contractor shall be paid ONE HUNDRED FOURTEEN DOLLARS (\$114) for conducting the first one and one half (1.5) hour visit and SEVENTY SIX DOLLARS (\$76) for conducting the second one (1.0) hour initial assessment visit. These assessments are to be conducted as an appointment separate from the group session.
2. Follow-up Individual Assessment: Contractor shall be paid NINETY FIVE DOLLARS (\$95) for conducting each one-and-one-quarter (1.25) hour follow-up assessment. The assessment is to be conducted as an appointment separate from the group session.
3. Group Session: Contractor shall be paid ONE HUNDRED DOLLARS (\$100) per 1.5 hour session, not to exceed \$800 per eight week group. Contractor must be present at session in order to bill for the session.
4. All other activities outlined in Section I. B., items 1-6: Contractor shall be paid at an hourly wage of FORTY DOLLARS (\$40) per hour. Contract is not to exceed TWENTY (20) hours per week.
5. Services outlined in Section II. B., items 1-4 are distinct services. At no time shall one distinct service be scheduled to overlap with a second service. Contractor will not be reimbursed for two services provided in the same time slot.
6. Contractor shall submit receipts or other documentation of expenditure as may be required by the County along with an invoice to County for payment. In no event shall expenditures exceed FIVE HUNDRED DOLLARS (\$500).

7. Send invoices monthly to San Mateo County Health System/Behavioral Health & Recovery Services, Attention: Michelle Patterson, 2000 Alameda de las Pulgas, Suite 240, San Mateo CA 94403.
8. County will use Mental Health Services Act Innovation funding to fund services provided by Contractor through this Agreement. Should actual funding be less than the amount anticipated for any period of this Agreement, the maximum payment obligation and/or payment obligation for specific services may be reduced at the discretion of the Health System Chief or designee.
9. The County will reimburse the Contractor within thirty days (30) days of approval of invoice with all necessary documentation as determined by the County.
10. For services delivered to BHRS under this Agreement, County's total fiscal obligation shall not exceed TWENTY THOUSAND DOLLARS (\$20,000).

C. Agreement Maximum

In no event shall County's total fiscal obligation for services delivered under this Agreement exceed ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000).

- D. In the event that this contract is terminated, Contractor will return any and all SHAPEDOWN materials loaned by HPSM including, but not limited to, the SHAPEDOWN Instructor's Guide; step and step test audiotape. In addition, Contractor will return any and all materials purchased under this Agreement.
- E. In the event this Agreement is terminated prior to June 30, 2012, the Contractor shall be paid for services already provided pursuant to this Agreement.
- F. County shall have the right to withhold payment if County determines that the quality or quantity of work is unacceptable.
- G. Invoice Certification and Program Integrity

Anytime Contractor submits an invoice to the County for reimbursement for services provided under Exhibit A of this Agreement, Contractor shall certify by signature that the invoice is true and accurate by stating the invoice is submitted under the penalty of perjury under the laws of the State of California.

The invoice must include the following language and signature line at the bottom of the form(s) and/or cover letter used to report the invoice:

“Under the penalty of perjury under the laws of the State of California, I hereby certify that the invoice for services complies with all terms and conditions referenced in the Agreement with San Mateo County.

Executed at _____, California, on _____,
20__

Signed _____ Title _____

Agency _____”

- H. Contractor agrees that the requirements of this Agreement pertaining to the protection of proprietary rights and confidentiality shall survive termination of this Agreement.

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
VILMA ANDARI**

THIS AGREEMENT, entered into this _____ day of _____, 20_____,
by and between the COUNTY OF SAN MATEO, hereinafter called "County," and Vilma
Andari, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract
with independent contractors for the furnishing of such services to or for County or any
Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose
of providing Shapedown services.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO
AS FOLLOWS:**

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference
herein:

Exhibit A—Services
Exhibit B—Payments and rates
Attachment I—§504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit “B,” Contractor shall
perform services for County in accordance with the terms, conditions and specifications set
forth herein and in Exhibit “A.”

3. Payments

In consideration of the services provided by Contractor in accordance with all terms,
conditions and specifications set forth herein and in Exhibit "A," County shall make payment
to Contractor based on the rates and in the manner specified in Exhibit "B." The County
reserves the right to withhold payment if the County determines that the quantity or quality
of the work performed is unacceptable. In no event shall the County’s total fiscal obligation
under this Agreement exceed ONE HUNDRED ONE THOUSAND EIGHT HUNDRED
DOLLARS (\$101,800).

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2011 through June 30, 2012.

This Agreement may be terminated by Contractor, the Chief of the Health System or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the County learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County’s prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. The Contractor shall furnish the County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the County of any pending change in the limits of liability or of any cancellation or modification of the policy.

(1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

(2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

- (a) Comprehensive General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. Further, Contractor certifies that the Contractor and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *Section 504 applies only to Contractor who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.

- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
 - i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;
 - iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

12. Compliance with Contractor Employee Jury Service Ordinance

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employees' regular pay the fees received for jury service.

13. Retention of Records, Right to Monitor and Audit

(a) CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

(c) CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

14. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

15. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or the United States District Court for the Northern District of California.

16. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when both (1) transmitted via facsimile to the telephone number listed below and (2) either deposited in the United States mail, postage prepaid, or when deposited for overnight delivery with an established overnight courier that provides a tracking number showing confirmation of receipt for transmittal, charges prepaid, addressed to:

In the case of County, to:
San Mateo County Health System
Family Health Services
Attention: Brian Zamora
2000 Alameda de las Pulgas, Suite 200
San Mateo, CA 94403

In the case of Contractor, to:
Vilma Andari
1021 Mallard Ridge Court
San Jose, CA 95120

In the event that the facsimile transmission is not possible, notice shall be given both by United States mail and an overnight courier as outlined above.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

Vilma Andari

Contractor's Signature

Date: _____

Exhibit “A”

In consideration of the payments set forth in Exhibit “B”, Contractor shall provide the following services:

- a. Complete the SHAPEDOWN Pediatric Obesity Introductory Clinical and Advanced Clinical Videocourse Training within three (3) months of receiving training materials (DVDs and course syllabus).
- b. Perform initial family assessments (separate from the group session) for HPSM members (Medi-Cal, Healthy Families, or Healthy Kids) referred utilizing the Shapedown assessment form. There will be up to two (2) visits per family for the assessment. The first (1st) will be one-and-one-half (1.5) hours; the second (2nd) will be one (1) hour. Contractor will refer families for SHAPEDOWN group treatment if appropriate. Contractor will maintain charts with complete documentation of services, assessments and care plan utilizing the NutraHealth Food/EPHITS Patient Health Information Tracking System (PHITS);
- c. Conduct SHAPEDOWN groups of eight (8) two and one half (2.5) hour sessions. In cooperation with co-leader, arrange for all needed handouts, materials, and nutritious snacks, maintain participation records of group participants, and lead each session;
- d. Provide up to five (5) one (1) hour individualized family nutrition education counseling sessions as appropriate for families that are not referred to SHAPEDOWN groups;
- e. Perform a one and one quarter (1.25) hour follow-up assessment (separate from the group session) for families completing the SHAPEDOWN groups or individual counseling;
- f. Contractors completing assessments or individual counseling (b., d., and e. outlined above) will provide a summary of the initial and follow-up assessments and group or individual appointments and other data according to guidelines provided by CHDP staff after each eight (8) week group session. The Contractor is required to utilize and incur the monthly database user fee for the PHITS for the purpose of data collection, maintaining participant records, evaluation, and quality assurance. Training on the database will be provided, as necessary;
- g. Contractors will receive HPSM member (Medi-Cal, Healthy Families, or Healthy Kids) referrals from HPSM staff, and are required to re-verify member eligibility on a monthly basis with HPSM staff for services to be provided (assessments, groups, or individual counseling) past the month in which the referral was initially received. Contractors are not to provide services to individuals determined by HPSM staff to be ineligible. If a contractor does not verify eligibility prior to providing services, he/she will not be paid for any member determined to be ineligible at the time of service.
- h. Collaborate with other SHAPEDOWN practitioners, CHDP staff, and HPSM staff to support appropriate referrals, continued family participation, and adjustments to program design to best serve families;
- i. Maintain complete program records including, but not limited to: participant heights, weight, BMI-for-age %, body fat measurements, fitness measures, attendance records, demographics, participant satisfaction questionnaires, and progress reports;

Participate in program planning meetings with CHDP and HPSM staff on an as needed basis to ensure program consistency, share materials, and receive administrative updates.

Exhibit “B”

In consideration of the services provided by Contractor in Exhibit “A”, County shall pay Contractor based on the following fee schedule:

1. Initial Comprehensive Family Assessment: Contractor shall be paid ONE HUNDRED FOURTEEN DOLLARS (\$114) for conducting the first one and one half (1.5) hour visit and SEVENTY SIX DOLLARS (\$76) for conducting the second one (1.0) hour initial assessment visit. These assessments are to be conducted as an appointment separate from the group session.
2. Follow-up Family Assessment: Contractor shall be paid NINETY FIVE DOLLARS (\$95) for conducting each one-and-one-quarter (1.25) hour follow-up family assessment. The assessment is to be conducted as an appointment separate from the group session.
3. Individual Family Nutrition Education: Contractor shall be paid FIFTY-FIVE DOLLARS (\$55) per hour for providing individualized nutrition education not to exceed five (5) hours per family.
4. Group Session: Contractor shall be paid TWO HUNDRED AND TWENTY FIVE DOLLARS (\$225) per 2.5 hour session, not to exceed \$1800 per eight week group. Contractor must be present at session in order to bill for the session.
5. Services outlined in Section II, Items 1-4, are distinct services. At no time shall one distinct service be scheduled to overlap with a second service. Contractor will not be reimbursed for two services provided in the same time slot as it is against Medi-Cal rules.
6. Multiple Group Session Coordination Fee: Contractor shall be paid FOUR HUNDRED AND FIFTY DOLLARS (\$450) per quarter to compensate for time spent on the coordination of four (4) or more group sessions per quarter, not to exceed EIGHTEEN HUNDRED DOLLARS (\$1800) per year. The Contractor will bill for the coordination fee at the end of the group session quarter provided the minimum number of sessions have been conducted.
7. Contractor shall submit receipts or other documentation of expenditure as may be required by the County along with an invoice to County for payment. Contractors utilizing the PHITS will have the monthly user fee of FORTY EIGHT DOLLARS (\$48) deducted from the monthly invoice. NOTE: Reimbursement for snack items will follow guidelines outlined by CHDP nutritionist.
8. Send invoices monthly to San Mateo County Health System/Family Health Services, Attention: Yvette Rivas Bedrosian, CHDP Program, 2000 Alameda de las Pulgas, San Mateo CA 94403
9. County anticipates revenues from Health Plan of San Mateo to be used to fund services provided by Contractor through this Agreement. Should actual revenues be less than the amounts anticipated for any period of this Agreement, the maximum payment obligation and/or payment obligation for specific services may be reduced at the discretion of the Health System Chief or designee.
10. The County will reimburse the Contractor within thirty days (30) days of approval of invoice with all necessary documentation as determined by the County, or whenever such funding becomes available through Health Plan of San Mateo (HPSM).
11. In no event shall the County’s total fiscal obligation under this Agreement exceed ONE HUNDRED THOUSAND DOLLARS (\$101,800).

In the event that this contract is terminated, Contractor will return any and all SHAPEDOWN materials loaned by HPSM including, but not limited to the SHAPEDOWN Instructor's Guide, step, and step test audiotape.

County shall have the right to withhold payment if County determines that the quality or quantity of work is unacceptable.

Contractor agrees that the requirements of this Agreement pertaining to the protection of proprietary rights and confidentiality shall survive termination of this Agreement.