



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Health System



DATE: August 19, 2011
BOARD MEETING DATE: September 13, 2011
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Jean S. Fraser, Chief, Health System
Stephen Kaplan, Director, Behavioral Health & Recovery Services

SUBJECT: Agreement with One East Palo Alto

RECOMMENDATION:

Adopt a Resolution authorizing the:

- A) President of the Board to execute an Agreement with One East Palo Alto for the provision of alcohol and other drug prevention services for the term July 1, 2011 through June 30, 2012, for a maximum obligation of \$150,000; and
- B) 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:

In November 2006 your Board approved the Alcohol and Other Drug Strategic Plan, Strategic Directions 2010. To implement the prevention strategies and services outlined in this strategic plan and the Roadmap for Alcohol, Tobacco, and Other Drug Prevention, a Request For Proposals (RFP) process was initiated in April 2007. The RFP called for either prevention planning or implementation proposals focusing on specific geographic areas of the County to implement and sustain effective alcohol and other drug prevention efforts. A total of fourteen proposals were received, including a proposal from One East Palo Alto (OEPA). The review committee recommended three proposals for planning and implementation and one proposal for implementation services only. Implementation service agreements are separate from planning service agreements, and are contingent upon a successful planning process. Based on the recommendations of the RFP review committee, OEPA was selected to lead a community-based partnership in a planning effort in East Palo Alto. OEPA has successfully completed the planning phase of their Agreement and is now in the implementation services phase. Contractor has developed and submitted to Alcohol and Other Drug Services (AOD) a comprehensive implementation work plan for approval.

DISCUSSION:

The East Palo Alto work plan is based on a community needs assessment and reflects the community’s priorities. OEPA will continue to lead in a collaborative effort to promote and improve connections between individuals, peers, families, and other stakeholders; reduce access to and availability of alcohol and other drugs to youth; and build on community assets in order to deliver a full range of prevention based activities.

The Agreement and Resolution have been reviewed and approved by County Counsel. The Contractor’s insurance has been reviewed and approved by Risk Management.

The Contractor has assured compliance with the County's Contractor 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 and equal benefits. This Agreement is on the Continuing Resolution.

The Agreement contributes to the Shared Vision 2025 outcome of a Healthy Community by providing alcohol and other drug prevention services in the East Palo Alto community. The establishment of a prevention partnership allows for greater collaboration between community-based organizations and more effective delivery of alcohol and other drug prevention services. It is anticipated that 75% of participants receiving services will agree or strongly agree that the prevention partnership is effective in the reduction of alcohol and other drugs.

Performance Measure:

Measure	FY 2010-11 Estimate	FY 2011-12 Projected
Percentage of participants in an alcohol and drug community-based prevention partnership who agree or strongly agree that their partnership is effective.	75%	75%

FISCAL IMPACT:

The term of the Agreement is July 1, 2011 through June 30, 2012, and the maximum obligation is \$150,000. Of that amount, it is anticipated that 100% will be funded by State Net Negotiated allocation, and the AOD Prevention Trust Fund. There is no Net County Cost. Funds for these services have been included in the BHRS FY 2011-12 Recommended Budget.

RESOLUTION NO. _____

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

* * * * *

RESOLUTION AUTHORIZING THE: A) PRESIDENT OF THE BOARD TO EXECUTE AN AGREEMENT WITH ONE EAST PALO ALTO FOR THE PROVISION OF ALCOHOL AND OTHER DRUG PREVENTION SERVICES FOR THE TERM OF JULY 1, 2011 THROUGH JUNE 30, 2012, FOR A MAXIMUM OBLIGATION OF \$150,000; AND B) 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, 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 One East Palo Alto shall provide alcohol and other drug prevention services for the term July 1, 2011 through June 30, 2012 for a maximum obligation of \$150,000; and

WHEREAS, this Board has been presented with a form of the Agreement and has examined and approved it as to both form and content and desires to enter into this Agreement.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Board of Supervisors be and is hereby authorized and directed to execute said Agreement 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 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.

* * * * *

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
ONE EAST PALO ALTO**

THIS AGREEMENT, entered into this _____ day of _____ ,
20_____, by and between the COUNTY OF SAN MATEO, hereinafter called "County,"
and ONE EAST PALO ALTO , 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 alcohol and drug prevention 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 E—Fingerprinting Compliance Form

Attachment H—HIPAA Business Associate requirements

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 FIFTY THOUSAND DOLLARS (\$150,000).

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 the Chief's 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 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 \$0

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, ordinances and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Federal Regulations promulgated thereunder, as amended, and will comply with the Business Associate requirements set forth in Attachment “H,” 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. 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. 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.

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 Contractors 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 in 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
Behavioral Health and Recovery Services
225 37th Avenue
San Mateo, CA 94403

In the case of Contractor, to:
One East Palo Alto
1798 B Bay Road
East Palo Alto, CA 94303

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

ONE EAST PALO ALTO

Contractor's Signature

Date: _____

EXHIBIT A – SERVICES
ONE EAST PALO ALTO
FY 2011 – 2012

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

I. DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

Contractor will be the lead/fiscal agency for the Community-Based Partnership for the prevention of alcohol and other drug-related problems in the East Palo Alto community of San Mateo County.

In providing its services and operations, Contractor will maintain compliance with the requirements of the San Mateo County Alcohol and Other Drug Services Provider Handbook. In doing so, Contractor will follow, and assure that the Community-Based Partnership follows federal, state, and local requirements, including general administrative, fiscal, and reporting responsibilities. These requirements and responsibilities are set forth in the Alcohol and Other Drug Services Provider Handbook which is located online at <http://www.aodsystems.com/SMC/Index.htm>, and is incorporated by reference herein.

A. COMMUNITY-BASED PARTNERSHIP

1. Work Plan and Budget Development and Approval:

- a. Contractor will develop a Work Plan in collaboration with the Community-Based Partnership, based on the Partnership’s assessment of community-level conditions, priorities, and capacity with respect to alcohol and other drug issues.
- b. Contractor will develop a Budget in consultation with the Community-Based Partnership. The Budget must be consistent with the scope of work reflected in the Work Plan and shall include a 20% in-kind match.
- c. Contractor’s Work Plan and Budget must be approved by the AOD Administrator or designee. The approved Work Plan and Budget are hereby incorporated by reference. Work Plan requirements include, but are not limited to:

- i. Work Plan shall align with the Behavioral Health and Recovery Services Prevention Framework and the Alcohol and Other Drug Services Strategic Prevention Framework. These documents are located in the Alcohol and Other Drug Services Provider Handbook described in Section I of Exhibit A.
- ii. Work Plan objectives shall be identified and strategies shall be developed with community input, and based upon local data. Strategies shall seek to impact community systems. Work Plan shall address the five (5) steps in the Strategic Prevention Framework: Assessment, Capacity, Planning, Implementation, and Evaluation.
- iii. Objectives must be specific and measurable with strategies and activities appropriate to achieve objectives.
- iv. Changes to the Work Plan and/or corresponding Budget must be negotiated collaboratively with the Community-Based Partnership and County AOD. Work Plan modifications are subject to approval by the County AOD Administrator or designee.

2. Work Plan Implementation:

- a. Contractor shall implement Work Plan strategies and activities to achieve Work Plan objectives.
- b. Contractor shall include the County AOD Analyst in the meetings of the Community-Based Partnership to provide technical assistance consultation and to monitor progress towards accomplishing the objectives described in the Work Plan.

3. Participation in Alcohol and Other Drug Sponsored Activities

- a. Contractor shall participate in AOD sponsored and recommended training, and technical assistance opportunities, and in county-wide level networking meetings and events, and shall encourage community partners to participate as well.

B. ADMINISTRATIVE REQUIREMENTS

1. CalOMS Prevention Data Collection and Reporting

- a. Enter data on a regular basis (as services occur) documenting the Community-Based Partnership's implementation activities into the California Department of Alcohol and Drug Program's web-based Outcomes Measurement System for Prevention (CalOMS Pv) Data System and in accordance with the requirements of the Alcohol and Other Drug Services Provider Handbook, located online at: <http://www.aodsystems.com/SMC/Index.htm>.
 - b. The quantity and quality of CalOMS Pv data input should accurately and adequately reflect the amount of funding, time, and effort devoted to implementation of the Work Plan. The link to the Web-based CalOMS Prevention data system is: <https://kitservices1.kithost.net/calomspv/pSystem.aspx>.
 - c. Communicate with County AOD staff regarding CalOMS Pv data review and comply with County AOD staff requests for data corrections and/or changes.
2. Implementation Progress Reporting
 - a. Maintain documentation of all Work Plan activities.
 - b. Contractor shall document Work Plan progress, including successes, challenges, participation by community residents, youth, and other sector representatives, and timeliness.
 - i. Provide a written quarterly progress update to the assigned AOD Analyst in a format provided by the County AOD Administrator or designee.
3. Financial and Units of Service Reporting
 - a. Submit the Quarterly Expense, Revenue, and Units of Service Report, Year-end Cost Report, and Agency Audit to the assigned AOD Analyst in accordance with the requirements of the Alcohol and Other Drug Services Provider Handbook, located online at: <http://www.aodsystems.com/SMC/Index.htm>.

- b. Report hours of staff availability dedicated to alcohol and other drug community-based prevention activities and efforts, including preparation time and record keeping time, for each fiscal year. Annual hours of staff availability are determined based upon the following formula: 1 FTE = 1,787 hours of staff availability

EXHIBIT B – PAYMENTS AND RATES
ONE EAST PALO ALTO
FY 2011 – 2012

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

I. PAYMENTS

In full consideration of the services provided by Contractor under this Agreement and subject to the provisions of Paragraph 3 of this Agreement, County shall pay Contractor in the manner described below:

A. COMMUNITY-BASED PARTNERSHIP

County shall be obligated to pay a maximum of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000). Unless otherwise authorized by the Chief of the Health System or designee, the rate of monthly payment by the County to Contractor shall be one-twelfth (1/12) of the maximum amount per month or TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500).

B. Funding is contingent upon availability of funds for AOD prevention and upon Contractor’s satisfactory progress on the contracted service deliverables.

C. Agreement Maximum

In any event, the maximum amount County shall be obligated to pay for services rendered under this Agreement shall not exceed ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000).

D. 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 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.

E. County anticipates revenues from various sources 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 obligations for specific services may be reduced at the discretion of the Chief of the Health System or designee.

- F. If County or Contractor finds that performance is inadequate, at the County's discretion, a meeting may be called to discuss the causes for the performance problem, and this Agreement may be renegotiated, allowed to continue to end of term, or terminated pursuant to Paragraph 4 of this Agreement. Any unspent monies due to performance failure may reduce the following year's agreement, if any.
- G. 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.
- H. Invoice Certification and Program Integrity

Anytime Contractor submits an invoice to the County for reimbursement for services provided under 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 _____"

Attachment H
Health Insurance Portability and Accountability Act (HIPAA)
Business Associate Requirements

Definitions

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations section 160.103 164.304 and 164.501. (All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.)

- a. *Designated Record Set.* “Designated Record Set” shall have the same meaning as the term “designated record set” in Section 164.501.
- b. *Electronic Protected Health Information.* “Electronic Protected Health Information” (“EPHI”) means individually identifiable health information that is transmitted or maintained in electronic media, limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- c. *Individual.* “Individual” shall have the same meaning as the term “individual” in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- d. *Privacy Rule.* “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E.
- e. *Protected Health Information.* “Protected Health Information” shall have the same meaning as the term “protected health information” in Section 164.501 and is limited to the information created or received by Contractor from or on behalf of County.
- f. *Required By Law.* “Required by law” shall have the same meaning as the term “required by law” in Section 164.501.
- g. *Secretary.* “Secretary” shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- h. *Security Incident.* “Security Incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system, but does not include minor incidents that occur on a daily basis, such as scans, “pings”, or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate
- i. *Security Rule.* “Security Rule” shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

Obligations and Activities of Contractor

- a. Contractor agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.
- b. Contractor agrees to use appropriate safeguards to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement.
- d. Contractor agrees to report to County any use or disclosure of the Protected Health Information not provided for by this Agreement.
- e. Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Contractor on behalf of County, agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- f. If Contractor has protected health information in a designated record set, Contractor agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.
- g. If Contractor has protected health information in a designated record set, Contractor agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, and in the time and manner designed by County.
- h. Contractor agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, County available to the County, or at the request of the County to the Secretary, in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- i. Contractor agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- j. Contractor agrees to provide to County or an Individual in the time and manner designated by County, information collected in accordance with Section (i) of this Schedule, to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

- k. Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Contractor creates, receives, maintains, or transmits on behalf of County.
- l. Contractor shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- m. Contractor shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.
- n. Contractor shall report to County any Security Incident within 5 business days of becoming aware of such incident.
- o. Contractor shall make its policies, procedures, and documentation relating to the security and privacy of protected health information, including EPHI, available to the Secretary of the U.S. Department of Health and Human Services and, at County's request, to the County for purposes of the Secretary determining County's compliance with the HIPAA privacy and security regulations.

Permitted Uses and Disclosures by Contractor

Except as otherwise limited in this Schedule, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

Obligations of County

- a. County shall provide Contractor with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Contractor's permitted or required uses and disclosures.
- c. County shall notify Contractor of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

Permissible Requests by County

County shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by County, unless the Contractor will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Contractor.

Duties Upon Termination of Agreement

- a. Upon termination of the Agreement, for any reason, Contractor shall return or destroy all Protected Health Information received from County, or created or received by Contractor on behalf of County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.
- b. In the event that Contractor determines that returning or destroying Protected Health Information is infeasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protection Health Information.

Miscellaneous

- a. *Regulatory References.* A reference in this Schedule to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. *Amendment.* The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- c. *Survival.* The respective rights and obligations of Contractor under this Schedule shall survive the termination of the Agreement.
- d. *Interpretation.* Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. *Reservation of Right to Monitor Activities.* County reserves the right to monitor the security policies and procedures of Contractor

ATTACHMENT I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- a. Employs fewer than 15 persons.
- b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Faye McNair-Knox
Name of 504 Person - Type or Print

One East Palo Alto
Name of Contractor(s) - Type or Print

1798-B Bay Road
Street Address or P.O. Box

East Palo Alto, CA 94303
City, State, Zip Code

I certify that the above information is complete and correct to the best of my knowledge.

Signature

Title of Authorized Official

Date

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Health System



DATE: August 19, 2011
BOARD MEETING DATE: September 13, 2011
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Jean S. Fraser, Chief, Health System
Stephen Kaplan, Director, Behavioral Health & Recovery Services

SUBJECT: Agreement with One East Palo Alto

RECOMMENDATION:

Adopt a Resolution authorizing the:

- A) President of the Board to execute an Agreement with One East Palo Alto for the provision of alcohol and other drug prevention services for the term July 1, 2011 through June 30, 2012, for a maximum obligation of \$150,000; and
- B) 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:

In November 2006 your Board approved the Alcohol and Other Drug Strategic Plan, Strategic Directions 2010. To implement the prevention strategies and services outlined in this strategic plan and the Roadmap for Alcohol, Tobacco, and Other Drug Prevention, a Request For Proposals (RFP) process was initiated in April 2007. The RFP called for either prevention planning or implementation proposals focusing on specific geographic areas of the County to implement and sustain effective alcohol and other drug prevention efforts. A total of fourteen proposals were received, including a proposal from One East Palo Alto (OEPA). The review committee recommended three proposals for planning and implementation and one proposal for implementation services only. Implementation service agreements are separate from planning service agreements, and are contingent upon a successful planning process. Based on the recommendations of the RFP review committee, OEPA was selected to lead a community-based partnership in a planning effort in East Palo Alto. OEPA has successfully completed the planning phase of their Agreement and is now in the implementation services phase. Contractor has developed and submitted to Alcohol and Other Drug Services (AOD) a comprehensive implementation work plan for approval.

DISCUSSION:

The East Palo Alto work plan is based on a community needs assessment and reflects the community’s priorities. OEPA will continue to lead in a collaborative effort to promote and improve connections between individuals, peers, families, and other stakeholders; reduce access to and availability of alcohol and other drugs to youth; and build on community assets in order to deliver a full range of prevention based activities.

The Agreement and Resolution have been reviewed and approved by County Counsel. The Contractor’s insurance has been reviewed and approved by Risk Management.

The Contractor has assured compliance with the County's Contractor 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 and equal benefits. This Agreement is on the Continuing Resolution.

The Agreement contributes to the Shared Vision 2025 outcome of a Healthy Community by providing alcohol and other drug prevention services in the East Palo Alto community. The establishment of a prevention partnership allows for greater collaboration between community-based organizations and more effective delivery of alcohol and other drug prevention services. It is anticipated that 75% of participants receiving services will agree or strongly agree that the prevention partnership is effective in the reduction of alcohol and other drugs.

Performance Measure:

Measure	FY 2010-11 Estimate	FY 2011-12 Projected
Percentage of participants in an alcohol and drug community-based prevention partnership who agree or strongly agree that their partnership is effective.	75%	75%

FISCAL IMPACT:

The term of the Agreement is July 1, 2011 through June 30, 2012, and the maximum obligation is \$150,000. Of that amount, it is anticipated that 100% will be funded by State Net Negotiated allocation, and the AOD Prevention Trust Fund. There is no Net County Cost. Funds for these services have been included in the BHRS FY 2011-12 Recommended Budget.

RESOLUTION NO. _____

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

* * * * *

RESOLUTION AUTHORIZING THE: A) PRESIDENT OF THE BOARD TO EXECUTE AN AGREEMENT WITH ONE EAST PALO ALTO FOR THE PROVISION OF ALCOHOL AND OTHER DRUG PREVENTION SERVICES FOR THE TERM OF JULY 1, 2011 THROUGH JUNE 30, 2012, FOR A MAXIMUM OBLIGATION OF \$150,000; AND B) 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, 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 One East Palo Alto shall provide alcohol and other drug prevention services for the term July 1, 2011 through June 30, 2012 for a maximum obligation of \$150,000; and

WHEREAS, this Board has been presented with a form of the Agreement and has examined and approved it as to both form and content and desires to enter into this Agreement.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Board of Supervisors be and is hereby authorized and directed to execute said Agreement 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 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.

* * * * *

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
ONE EAST PALO ALTO**

THIS AGREEMENT, entered into this _____ day of _____ ,
20_____, by and between the COUNTY OF SAN MATEO, hereinafter called "County,"
and ONE EAST PALO ALTO , 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 alcohol and drug prevention 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 E—Fingerprinting Compliance Form

Attachment H—HIPAA Business Associate requirements

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

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 the Chief's 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 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 \$0

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, ordinances and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Federal Regulations promulgated thereunder, as amended, and will comply with the Business Associate requirements set forth in Attachment "H," 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. 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. 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.

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 Contractors 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 in 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
Behavioral Health and Recovery Services
225 37th Avenue
San Mateo, CA 94403

In the case of Contractor, to:

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

SITIKE COUNSELING CENTER

Contractor's Signature

Date: _____

EXHIBIT A – SERVICES
ONE EAST PALO ALTO
FY 2011 – 2012

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

I. DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

Contractor will be the lead/fiscal agency for the Community-Based Partnership for the prevention of alcohol and other drug-related problems in the East Palo Alto community of San Mateo County.

In providing its services and operations, Contractor will maintain compliance with the requirements of the San Mateo County Alcohol and Other Drug Services Provider Handbook. In doing so, Contractor will follow, and assure that the Community-Based Partnership follows federal, state, and local requirements, including general administrative, fiscal, and reporting responsibilities. These requirements and responsibilities are set forth in the Alcohol and Other Drug Services Provider Handbook which is located online at <http://www.aodsystems.com/SMC/Index.htm>, and is incorporated by reference herein.

A. COMMUNITY-BASED PARTNERSHIP

1. Work Plan and Budget Development and Approval:

- a. Contractor will develop a Work Plan in collaboration with the Community-Based Partnership, based on the Partnership’s assessment of community-level conditions, priorities, and capacity with respect to alcohol and other drug issues.
- b. Contractor will develop a Budget in consultation with the Community-Based Partnership. The Budget must be consistent with the scope of work reflected in the Work Plan and shall include a 20% in-kind match.
- c. Contractor’s Work Plan and Budget must be approved by the AOD Administrator or designee. The approved Work Plan and Budget are hereby incorporated by reference. Work Plan requirements include, but are not limited to:

- i. Work Plan shall align with the Behavioral Health and Recovery Services Prevention Framework and the Alcohol and Other Drug Services Strategic Prevention Framework. These documents are located in the Alcohol and Other Drug Services Provider Handbook described in Section I of Exhibit A.
- ii. Work Plan objectives shall be identified and strategies shall be developed with community input, and based upon local data. Strategies shall seek to impact community systems. Work Plan shall address the five (5) steps in the Strategic Prevention Framework: Assessment, Capacity, Planning, Implementation, and Evaluation.
- iii. Objectives must be specific and measurable with strategies and activities appropriate to achieve objectives.
- iv. Changes to the Work Plan and/or corresponding Budget must be negotiated collaboratively with the Community-Based Partnership and County AOD. Work Plan modifications are subject to approval by the County AOD Administrator or designee.

2. Work Plan Implementation:

- a. Contractor shall implement Work Plan strategies and activities to achieve Work Plan objectives.
- b. Contractor shall include the County AOD Analyst in the meetings of the Community-Based Partnership to provide technical assistance consultation and to monitor progress towards accomplishing the objectives described in the Work Plan.

3. Participation in Alcohol and Other Drug Sponsored Activities

- a. Contractor shall participate in AOD sponsored and recommended training, and technical assistance opportunities, and in county-wide level networking meetings and events, and shall encourage community partners to participate as well.

B. ADMINISTRATIVE REQUIREMENTS

1. CalOMS Prevention Data Collection and Reporting

- a. Enter data on a regular basis (as services occur) documenting the Community-Based Partnership's implementation activities into the California Department of Alcohol and Drug Program's web-based Outcomes Measurement System for Prevention (CalOMS Pv) Data System and in accordance with the requirements of the Alcohol and Other Drug Services Provider Handbook, located online at: <http://www.aodsystems.com/SMC/Index.htm>.
 - b. The quantity and quality of CalOMS Pv data input should accurately and adequately reflect the amount of funding, time, and effort devoted to implementation of the Work Plan. The link to the Web-based CalOMS Prevention data system is: <https://kitservices1.kithost.net/calomspv/pSystem.aspx>.
 - c. Communicate with County AOD staff regarding CalOMS Pv data review and comply with County AOD staff requests for data corrections and/or changes.
2. Implementation Progress Reporting
 - a. Maintain documentation of all Work Plan activities.
 - b. Contractor shall document Work Plan progress, including successes, challenges, participation by community residents, youth, and other sector representatives, and timeliness.
 - i. Provide a written quarterly progress update to the assigned AOD Analyst in a format provided by the County AOD Administrator or designee.
3. Financial and Units of Service Reporting
 - a. Submit the Quarterly Expense, Revenue, and Units of Service Report, Year-end Cost Report, and Agency Audit to the assigned AOD Analyst in accordance with the requirements of the Alcohol and Other Drug Services Provider Handbook, located online at: <http://www.aodsystems.com/SMC/Index.htm>.

- b. Report hours of staff availability dedicated to alcohol and other drug community-based prevention activities and efforts, including preparation time and record keeping time, for each fiscal year. Annual hours of staff availability are determined based upon the following formula: 1 FTE = 1,787 hours of staff availability

EXHIBIT B – PAYMENTS AND RATES
ONE EAST PALO ALTO
FY 2011 – 2012

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

I. PAYMENTS

In full consideration of the services provided by Contractor under this Agreement and subject to the provisions of Paragraph 3 of this Agreement, County shall pay Contractor in the manner described below:

A. COMMUNITY-BASED PARTNERSHIP

County shall be obligated to pay a maximum of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000). Unless otherwise authorized by the Chief of the Health System or designee, the rate of monthly payment by the County to Contractor shall be one-twelfth (1/12) of the maximum amount per month or TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500).

B. Funding is contingent upon availability of funds for AOD prevention and upon Contractor’s satisfactory progress on the contracted service deliverables.

C. Agreement Maximum

In any event, the maximum amount County shall be obligated to pay for services rendered under this Agreement shall not exceed ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000).

D. 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 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.

E. County anticipates revenues from various sources 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 obligations for specific services may be reduced at the discretion of the Chief of the Health System or designee.

- F. If County or Contractor finds that performance is inadequate, at the County's discretion, a meeting may be called to discuss the causes for the performance problem, and this Agreement may be renegotiated, allowed to continue to end of term, or terminated pursuant to Paragraph 4 of this Agreement. Any unspent monies due to performance failure may reduce the following year's agreement, if any.
- G. 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.
- H. Invoice Certification and Program Integrity

Anytime Contractor submits an invoice to the County for reimbursement for services provided under 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 _____"

Attachment H
Health Insurance Portability and Accountability Act (HIPAA)
Business Associate Requirements

Definitions

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations section 160.103 164.304 and 164.501. (All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.)

- a. *Designated Record Set.* “Designated Record Set” shall have the same meaning as the term “designated record set” in Section 164.501.
- b. *Electronic Protected Health Information.* “Electronic Protected Health Information” (“EPHI”) means individually identifiable health information that is transmitted or maintained in electronic media, limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- c. *Individual.* “Individual” shall have the same meaning as the term “individual” in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- d. *Privacy Rule.* “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E.
- e. *Protected Health Information.* “Protected Health Information” shall have the same meaning as the term “protected health information” in Section 164.501 and is limited to the information created or received by Contractor from or on behalf of County.
- f. *Required By Law.* “Required by law” shall have the same meaning as the term “required by law” in Section 164.501.
- g. *Secretary.* “Secretary” shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- h. *Security Incident.* “Security Incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system, but does not include minor incidents that occur on a daily basis, such as scans, “pings”, or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate
- i. *Security Rule.* “Security Rule” shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

Obligations and Activities of Contractor

- a. Contractor agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.
- b. Contractor agrees to use appropriate safeguards to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement.
- d. Contractor agrees to report to County any use or disclosure of the Protected Health Information not provided for by this Agreement.
- e. Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Contractor on behalf of County, agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- f. If Contractor has protected health information in a designated record set, Contractor agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.
- g. If Contractor has protected health information in a designated record set, Contractor agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, and in the time and manner designed by County.
- h. Contractor agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, County available to the County, or at the request of the County to the Secretary, in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- i. Contractor agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- j. Contractor agrees to provide to County or an Individual in the time and manner designated by County, information collected in accordance with Section (i) of this Schedule, to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

- k. Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Contractor creates, receives, maintains, or transmits on behalf of County.
- l. Contractor shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- m. Contractor shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.
- n. Contractor shall report to County any Security Incident within 5 business days of becoming aware of such incident.
- o. Contractor shall make its policies, procedures, and documentation relating to the security and privacy of protected health information, including EPHI, available to the Secretary of the U.S. Department of Health and Human Services and, at County's request, to the County for purposes of the Secretary determining County's compliance with the HIPAA privacy and security regulations.

Permitted Uses and Disclosures by Contractor

Except as otherwise limited in this Schedule, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

Obligations of County

- a. County shall provide Contractor with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Contractor's permitted or required uses and disclosures.
- c. County shall notify Contractor of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

Permissible Requests by County

County shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by County, unless the Contractor will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Contractor.

Duties Upon Termination of Agreement

- a. Upon termination of the Agreement, for any reason, Contractor shall return or destroy all Protected Health Information received from County, or created or received by Contractor on behalf of County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.
- b. In the event that Contractor determines that returning or destroying Protected Health Information is infeasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protection Health Information.

Miscellaneous

- a. *Regulatory References.* A reference in this Schedule to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. *Amendment.* The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- c. *Survival.* The respective rights and obligations of Contractor under this Schedule shall survive the termination of the Agreement.
- d. *Interpretation.* Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. *Reservation of Right to Monitor Activities.* County reserves the right to monitor the security policies and procedures of Contractor

ATTACHMENT I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- a. Employs fewer than 15 persons.
- b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Faye McNair-Knox
Name of 504 Person - Type or Print

One East Palo Alto
Name of Contractor(s) - Type or Print

1798-B Bay Road
Street Address or P.O. Box

East Palo Alto, CA 94303
City, State, Zip Code

I certify that the above information is complete and correct to the best of my knowledge.

Signature

Title of Authorized Official

Date

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."