The Honorable Board of Supervisors
Administration Building
Oakland, CA 94612

Dear Board Members:

Subject: Renew Contract with Basil Bernstein, M.D. for Psychiatric Consultation services.

RECOMMENDATION:

That your Board approve and sign a renewal contract with Basil Bernstein, M.D. (Location: San Francisco, CA) for the provision of child psychiatric consultation services from July 1, 2009 to June 30, 2011 for a contract amount not to exceed $90,000. (Contract #3931)

DISCUSSION/SUMMARY:

Dr. Basil Bernstein has been providing child psychiatry consulting services to Behavioral Health Care Services (BHCS) since 2001. The demand for such services has increased as child psychiatrist resources have diminished over time and our programs and contracts have grown. Dr. Bernstein has extensive knowledge and understanding of policies, procedures and best practices concerning statewide and local children and transitional youth programs. Through his academic affiliation with UCSF School of Medicine and his membership in many professional organizations statewide and nationally, Dr. Bernstein is in a position to provide valuable consultation to BHCS, the courts and the HCSA on many issues including system to system collaboration affecting continuity of care of children and youth.

SELECTION CRITERIA:

Dr. Basil Bernstein is not part of BHCS’s network of providers and does not intend to become a network provider in the future. This is a necessary requirement in order to maintain impartiality in the provision of Federal and State compliance reviews of providers in the BHCS network.

GSA Purchasing issued a “Finding of Non-competition” dated December 8, 2006, in accordance with the County Administrative Code Section 4.12.010, “Purchases to be by Competitive Quotation,” for Dr. Basil Bernstein approving department’s request for waiver of county competitive bidding requirement. (OAP waiver #330)
FINANCING:

Funding for this contract is included in the BHCS’s proposed budget. There will be no increase in net County cost.

Very truly yours,

David J. Kears, Director
Health Care Services Agency

DJK/bm/jf

Cc: County Counsel
    County Administrator
    Auditor-Controller Agency
COUNTY OF ALAMEDA
STANDARD SERVICES AGREEMENT

This Agreement, dated as of May 1, 2009, is by and between the County of Alameda, hereinafter referred to as the "County", and Basil Bernstein MD, hereinafter referred to as the "Contractor".

WITNESSETH

Whereas, County desires to obtain Child Psychiatry Consulting Services which are more fully described in Exhibit A hereeto ("Definition of Services"); and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide Child Psychiatry Consulting Services, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A Definition of Services
Exhibit B Payment Terms
Exhibit C Insurance Requirements
Exhibit D Debarment and Suspension Certification
Exhibit E Business Associate Provisions (HIPAA)

The term of this Agreement shall be from July 1, 2009 through June 30, 2011.

The compensation payable to Contractor hereunder shall not exceed Ninety Thousand Dollars ($90,000) for the term of this Agreement.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

By: ________________________________
Signature

Name: ________________________________
(Printed)

Title: President of the Board of Supervisors

BASIL BERNSTEIN MD

By: ________________________________
Signature

Name: ________________________________
(Printed)

Title: ________________________________

Date: 4/24/09

Approved as to Form:

By: ________________________________
County Counsel Signature

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.
GENERAL TERMS AND CONDITIONS

1. INDEPENDENT CONTRACTOR: No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers’ Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor’s failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state workers’ compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the County determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, County may upon two week’s notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments.
2. INDEMNIFICATION: To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys’ fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively “Liabilities”) except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees’ Retirement Association (ACERA) or California Public Employees’ Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

3. INSURANCE AND BOND: Contractor shall at all times during the term of the Agreement with the County maintain in force those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein.

4. PREVAILING WAGES: Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.
5. **WORKERS’ COMPENSATION:** Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

6. **CONFORMITY WITH LAW AND SAFETY:**
   
   a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor’s failures to comply with such laws, ordinances, codes and regulations.

   b. **Accidents:** If a death, serious personal injury or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.

   c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.

7. **DEBARMENT AND SUSPENSION CERTIFICATION:** (Applicable to all agreements funded in part or whole with federal funds and contracts over $25,000).

   a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code

b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.

8. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.

9. TRAVEL EXPENSES: Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.

10. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.

11. OWNERSHIP OF DOCUMENTS: Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor’s sub-Contractors or third parties at the request of the Contractor (collectively, “Documents and Materials”). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor’s Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the County and any assignee of the County an express

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royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's services as set forth in Exhibit “A” of this Agreement have been fully performed or paid for.

In Contractor’s contracts with other Contractors, Contractor shall expressly obligate its Sub-Contractors to grant the County the aforesaid assignment and license rights as to that Contractor’s Documents and Materials. Contractor agrees to defend, indemnify and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit “A”, and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such selection. The County’s rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. CONFLICT OF INTEREST; CONFIDENTIALITY: The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.
13. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA
Behavioral Health Care Services
2000 Embarcadero, Suite 400
Oakland, CA 94606-5300
Attn: Dr. Richard Singer, Medical Director

To Contractor: Dr. Basil Bernstein
1333 Gough Street, #9A
San Francisco, CA 94109

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.
Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. USE OF COUNTY PROPERTY: Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.

15. EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:
Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran’s status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.

a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an “Equal Opportunity Employer” or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran’s status, political affiliation, or any other non-merit factor.

b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran’s status, political affiliation, or any other non-merit factor.

c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.

d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.

e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.

f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.
16. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.

17. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

18. **DOCUMENTS AND MATERIALS:** Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3)
years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County’s last payment to Contractor under this Agreement.

19. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.

20. **TERMINATION:** The County has and reserves the right to suspend, terminate or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate or suspend the Contractor’s work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its *Child Psychiatry Consulting Services* shall not exceed *Ninety Thousand Dollars* ($90,000) payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.

21. **SMALL LOCAL AND EMERGING BUSINESS PARTICIPATION:** Contractor shall subcontract with *company name (street address, city, state; Principal, name)*, for services to be provided under this Agreement in an amount of at least twenty percent (20%) (or adjust percentage if more than or less than) of the contract value of this Agreement in accordance with County’s Small and Emerging Local Business provision.

Participation of a small and/or emerging local business must be maintained for the term of this contract. Contractor shall not substitute the small and/or emerging local business(s) listed in this agreement without prior written approval from the County. County will be under no obligation to pay contractor for the percent committed to a small and/or local business if the work is not performed or not performed by the listed small and/or emerging local business. Said requests to substitute a small and/or emerging local business shall be submitted in writing to the County department contract representative identified under Item #13 above. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance Officer.

Contractor shall provide SLEB utilization reports when invoicing the County utilizing the Alameda County Compliance System. Contractor and Contractor’s small and/or emerging local businesses participating as subcontractors on the
awarded contract are required to use the County web-based compliance system as described in Exhibit E (Contract Compliance Reporting Requirements) to report and validate payments made by Prime Contractors to the certified small and/or emerging local businesses. It is the Contractor’s responsibility to ensure that they and their subcontractors are registered and trained as required to utilize the Alameda County Contract Compliance System.

Contact the County Auditor-Controller’s Office of Contract Compliance (OCC) located at 1221 Oak St., Rm. 249, Oakland, CA 94612 at Tel: (510) 891-5500, Fax: (510) 272-6502 or via E-mail at ACSLEBcompliance@acgov.org if you have any other questions regarding utilization of the Alameda County Contract Compliance System.

22. **FIRST SOURCE PROGRAM:** For contracts over $100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.

23. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.

24. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

25. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.

26. **HEADINGS** herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
27. ADVERTISING OR PUBLICITY: Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.

28. MODIFICATION OF AGREEMENT: This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.

29. ASSURANCE OF PERFORMANCE: If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor’s performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County’s request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.

30. SUBCONTRACTING/ASSIGNMENT: Contractor shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the County’s prior written approval.

a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.

b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County’s prior written approval.

c. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.

31. SURVIVAL: The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.
32. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

33. **PATENT AND COPYRIGHT INDEMNITY:** Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software ("Contractor Products") provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, "Losses") arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County’s prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.

   a. If Contractor is obligated to defend County pursuant to this Section 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney’s fees and costs) incurred in relationship with County’s defense and/or settlement of such proceeding.

   b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that they become non-infringing, but equivalent in functionality and performance.

   c. Notwithstanding this Section 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.

34. **OTHER AGENCIES:** Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.
35. SIGNATORY: By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

[END OF GENERAL TERMS AND CONDITIONS]
ADDITIONAL PROVISIONS

1. Delete Paragraph 21, SMALL, LOCAL AND EMERGING BUSINESS PARTICIPATION, does not apply.

2. Delete Paragraph 22, First Source Program does not apply.

3. Exhibit E, Business Associate Provisions (HIPAA) has been added.

County Counsel Signature: [Signature]
EXHIBIT A
DEFINITION OF SERVICES

Services to be Provided:

- Provide services an average of 10 hours per week to BHCS Child and Youth Services. It is expected that the contractor will work collaboratively with the Lead Child Psychiatrist of county child and youth psychiatric services clinics. The contractor will provide consulting services to the Medical Director or the Director of Child and Youth Services.

- The development of a protocol or process to assess psychotropic medication practices, as they currently exist among physician providers serving the needs of contracted, community bases agencies and programs. The development of a periodic review, oversight and training events that will move practitioners serving Alameda County youth toward a set of best practices and uniform standard for the prescription of psychotropic medications. This review process will be developed in collaboration jointly with the office of the Medical Director and Child and Youth Service.

- Provide consultation and training as needed to private practice and community agency pediatricians with the goal of making them more comfortable with the treatment of youth diagnosed with ADD/ADHD, Depression and other conditions treatable in a primary care setting.

- To develop training for Juvenile Court Judges and Commissioners on the appropriate use of psychotropic medications with children and youth, including side effects and other related issues.

- The development of in-service training to Child and Family Service agency workers and management staff on various topics related to the psychiatric treatment of children in foster care. This training curriculum might take the form of brown bag seminars that allow for some teaching and the answering of questions from staff that are directly responsible for procuring and evaluating treatment services for children in their caseloads.

- Medical authorization reviews for the juvenile courts/BHCS; procedures, forms and logistics to be established by the Child and Youth Director in collaboration with the Medical Director and contractor.
EXHIBIT B
PAYMENT TERM

1. Total payment under the terms of this Agreement will not exceed the total amount of Ninety Thousand Dollars ($90,000) for the period of the contract. This cost includes all taxes and all other charges.

- Consulting fee ($98/hour) from 7/1/09 to 6/30/10: $45,000
- Consulting fee ($98/hour) from 7/1/10 to 6/30/11: $45,000

Total contract amount: $90,000

2. County will pay Contractor 30 days upon receipt of invoice for services performed pursuant to this Agreement. Invoices will be approved by the County's representative: Behavioral Health Care Services Medical Director, Dr. Richard Singer, or his designee. All invoices under this Agreement shall be sent to:

   COUNTY OF ALAMEDA
   Behavioral Health Care Services
   2000 Embarcadero, Suite 101
   Oakland, CA 94606-5300
   Attn: Julie Fung, Financial Services Specialist II

3. Upon award of this Agreement by County, County and Contractor shall forthwith jointly create a schedule, work plan, timelines, and deliverables governing the timely performance of Contractor's services hereunder. The agreed upon schedule, work plan, timelines, and deliverables shall be incorporated into this Agreement upon its adoption by the parties and thereafter Contractor shall perform all services under this Agreement in conformance with the schedule.

4. Upon notice to proceed from County, Contractor shall perform in accordance to the schedule as agreed upon by County and Contractor.

5. The term of this Agreement is July 1, 2009 through June 30, 2011.
EXHIBIT C  
COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following insurance coverage, limits and endorsements:

<table>
<thead>
<tr>
<th>TYPE OF INSURANCE COVERAGES</th>
<th>MINIMUM LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A</strong> Commercial General Liability</td>
<td>$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage</td>
</tr>
<tr>
<td>Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability; Abuse, Molestation, Sexual Actions, and Assault and Battery</td>
<td></td>
</tr>
<tr>
<td><strong>B</strong> Commercial or Business Automobile Liability</td>
<td>$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage</td>
</tr>
<tr>
<td>All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related activities</td>
<td></td>
</tr>
<tr>
<td><strong>C</strong> Workers' Compensation (WC) and Employers Liability (EL)</td>
<td>WC: Statutory Limits EL: $100,000 per accident for bodily injury or disease</td>
</tr>
<tr>
<td>Required for all contractors with employees</td>
<td></td>
</tr>
<tr>
<td><strong>D</strong> Professional, Medical and Hospital Liability</td>
<td>$3,000,000 per occurrence $10,000,000 aggregate Bodily Injury and Property Damage</td>
</tr>
<tr>
<td><strong>E</strong> Endorsements and Conditions:</td>
<td></td>
</tr>
<tr>
<td>1. <strong>ADDITIONAL INSURED:</strong> All insurance required above shall be endorsed to name as additional insured: County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees and representatives, with the exception of Professional Liability, Workers' Compensation and Employers Liability.</td>
<td></td>
</tr>
<tr>
<td>2. <strong>DURATION OF COVERAGE:</strong> All required insurance shall be maintained during the entire term of the Agreement with the following exception: Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following termination and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement.</td>
<td></td>
</tr>
<tr>
<td>3. <strong>REDUCTION OR LIMIT OF OBLIGATION:</strong> All insurance policies shall be primary insurance to any insurance available to the Indemnified Parties and Additional Insured(s). Pursuant to the provisions of this Agreement, insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties.</td>
<td></td>
</tr>
<tr>
<td>4. <strong>INSURER FINANCIAL RATING:</strong> Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.</td>
<td></td>
</tr>
<tr>
<td>5. <strong>SUBCONTRACTORS:</strong> Contractor shall include all subcontractors as an insured (covered party) under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.</td>
<td></td>
</tr>
<tr>
<td>6. <strong>JOINT VENTURES:</strong> If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by any one of the following methods:</td>
<td></td>
</tr>
<tr>
<td>-- Separate insurance policies issued for each individual entity, with each entity included as a &quot;Named Insured (covered party),&quot; or at minimum named as an &quot;Additional Insured&quot; on the other's policies.</td>
<td></td>
</tr>
<tr>
<td>-- Joint insurance program with the association, partnership or other joint business venture included as a &quot;Named Insured.&quot;</td>
<td></td>
</tr>
<tr>
<td>7. <strong>CANCELLATION OF INSURANCE:</strong> All required insurance shall be endorsed to provide thirty (30) days advance written notice to the County of cancellation.</td>
<td></td>
</tr>
<tr>
<td>8. <strong>CERTIFICATE OF INSURANCE:</strong> Before commencement of any operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The require certificate(s) and endorsements must be sent to:</td>
<td></td>
</tr>
<tr>
<td>- Department/Agency issuing the contract</td>
<td></td>
</tr>
<tr>
<td>- With a copy to Risk Management Unit (125 – 12th Street, 3rd Floor, Oakland, CA 94607)</td>
<td></td>
</tr>
</tbody>
</table>
County of Alameda
Request for Insurance Waiver or Change
(To be completed by the Contracting Department)
Fax or QIC to: Risk Management Unit
Fax 272-6815 or 2-6815 / QIC 28505

Attn.: Contract Review: Mike Chan
Phone: X26429
(Sr. Risk & Insurance Analyst)
Fax x26815

Fax Back to:
Name: Julie Fung
Dept.: BHSVC
Phone: x31528
QIC: 22702
Fax: 38(3)-1584

Date of Request: 4/8/09
Amount of Contract: $90,000
Term of Contract: 7/1/09 to 6/30/2011
Name of Contractor: ________________________________

1. What do you want to waive or change (W=waive and C=change)?
   a) Coverage (s):
      General Liability X-waive, Auto Liability __, Professional Liability __, Workers' Comp X-waive
      Other Required Coverages: ________________________________
   b) Change in Limits:
      General Liability: From $1,000,000 to $ ______ per occurrence
      Auto Liability: From $1,000,000 to $ ______ per occurrence
      Professional Liability: From $1,000,000 to $ ______ per claim
      Other Coverage Limits: ________________________________
   b) Request for Time Waiver: # of days requested: ______ (This allows Contractor time to bind the insurance before the Contract term begins)
   c) Other: ________________________________

2. Reason: Scope of services does not pose liability & contractor does not employ anybody

3. For Workers’ Compensation Waiver, please have Contractor sign this declaration:

   Declaration:
   With respect to the above-mentioned business, I hereby warrant that the business has no employees other than the owners, officers, directors, partners or other principals who have elected to be exempt from Worker's Compensation coverage in accordance with California law.

   I further warrant that I understand the requirements of Section 3700 et seq. of the California Labor Code with respect to providing Worker's Compensation coverage for any employees of the above mentioned business. I agree to comply with the code requirements and all other applicable laws and regulations regarding workers compensation, payroll taxes, FICA and tax withholding and similar employment issues. I further agree to hold the County of Alameda harmless from loss or liability which may arise from the failure of the above-mentioned business to comply with any such laws or regulations. I therefore request that the County of Alameda waive its requirement for evidence of Workers' Compensation insurance in connection with the above-referenced work.

   Signature ________________________________
   Basil G. Bernstein, MD

   Horse, Officer, Director, Partnership or other Principal
   Date

4. Please attach a copy of the Scope of Services.

Identify Risk to County:
--------------
Waiver: Granted / Denied
Change: Granted / Denied

Considerations: A Vendor/Contractor Insurance Program has been developed for contractors who do not have or cannot afford the required insurance. Please contact the Risk Management Unit for more information.

Authorized Signature: ________________________________

Date: 4/9/09

Rev. 12/2007
APA-ENDORSED PROFESSIONAL LIABILITY INSURANCE PROGRAM

Certificate of Insurance

This certificate is issued as a matter of information only and confers no rights upon the certificate holder.

This certificate does not amend, extend or alter the coverage provided by the insurance policy below:

Basil G. Bernstein, MD
1333 Gough Street, No. 9A
San Francisco, CA 94109

The policy of insurance listed below has been issued to the named insured for the policy period indicated. Notwithstanding any requirement, term or condition of any policy described herein in respect to which this certificate may be issued or may pertain, the insurance afforded by the policy described herein is subject in all respects to all terms, exclusions and conditions of such policy. Aggregate limits shown may have been reduced by paid claims.

Transatlantic Professional Risk Management Services, Inc.

From: October 1, 2008
     at 12:01 A.M. Standard Time

To: October 1, 2009
     at 12:01 A.M. Standard Time

Retroactive Date: at 12:01 A.M. Standard Time

1515 Wilson Blvd., Suite
000
Arlington, VA 22209

10/1/2008 $1,000,000 / $3,000,000

Claims Made

CA3

Aetna Insurance Co;
PA Medical Staffing Office

Should the above described policy be cancelled before the expiration date thereof, the company will endeavor to mail written notice to the certificate holder named to the left, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

Professional Risk Management Services, Inc.
1515 Wilson Boulevard, Suite 800
Arlington, VA 22209
Telephone: (800) 245-3333

October 13, 2008

Date

801/68 (6/01)
STATE FARM INSURANCE COMPANIES®

DATE OF NOTICE: JAN 23 2009

STATE FARM INSURANCE COMPANIES®
6400 State Farm Drive
Rohnert Park CA 94926

AT 11 02 000024

COUNTY OF ALAMEDA
BEHA VITUAL HEALTH CARE
SERVICES, FISCAL SERVICES
2000 EMBARADERO COVE STE 101
OAKLAND CA 94606

DATE OF NOTICE: JAN 23 2009

NOTE: PLEASE NOTIFY STATE FARM AT THE
ADDRESS LISTED AT THE TOP, LEFT CORNER
OF THIS PAGE REGARDING ANY CHANGE OF
ADDRESS INFORMATION.

ADDITIONAL INSURED'S NOTICE OF COVERAGE

State Farm Mutual Automobile Insurance Company

POLICY NO: 71 8787-B21-05D
YR/MAKE/MODEL: 1999 HONDA 4DR
VIN/CAMPER: 1HGCG1650XA024984
AGENT NAME: MICHAEL WOO
AGENT PHONE: (415)396-6777
ENDORSEMENT NO: 6028AU

COVERAGE:
$1 MIL
$250 DED COMP
$500 DED COLL

POLICY EFFECTIVE JAN 21 2009 UNTIL TERMINATED

POLICY MESSAGES: This policy shown above supersedes policy # 0718787-05C.
The policy includes a loss payable clause protecting the additional insured's interest in the described car to the extent of the insurance provided and subject to all policy provisions. The additional insured will be given 20 days notice if the policy is terminated. Until such notice is provided, it shall be presumed that the required renewal premiums have been paid. The additional insured must notify us within 10 days of any change of interest or ownership coming to their attention. Failure to do so will render this policy null and void.
NOTE: PLEASE NOTIFY STATE FARM AT THE ADDRESS LISTED AT THE TOP, LEFT CORNER OF THIS PAGE REGARDING ANY CHANGE OF ADDRESS INFORMATION.

NOTICE OF TERMINATION OF A THIRD PARTY INTEREST

State Farm Mutual Automobile Insurance Company

NAMED INSURED: BERNSTEIN, BASIL
1333 GOUGH ST APT 9A
SAN FRANCISCO CA 94109-6520

POLICY NO: 71 8787-B21-05G
YR/MAKE/MODEL: 1999 HONDA 4DR
VIN/CAMPER: 1HGCG1650XA024984
AGENT NAME: MICHAEL WOO
AGENT PHONE: (415)386-6777

3RD PARTY INTEREST TERMINATED
EFFECTIVE FEB 12 2009

POLICY MESSAGES:
Protection of the third party's interest provided by this policy is terminated as of the effective date above for the following reason: Third party interest terminated. This advance notice is solely to protect the third party's interests as they are affected by the ownership, maintenance, or use of the car described in the policy.
EXHIBIT D

COUNTY OF ALAMEDA
DEBARMENT AND SUSPENSION CERTIFICATION
For Procurements Over $25,000

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principles, and any named subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessary result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: Basil G. Bernstein

PRINCIPAL: TITLE: 

SIGNATURE: DATE: 4/25/09
Exhibit E

Business Associate Provisions

(HIPAA)

Regulatory References. All references to regulatory sections, parts and subparts in this Exhibit are to Title 45 of the Code of Federal Regulations as in effect or as amended, unless otherwise specified.

Definitions

Capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms are defined in 45 Code of Federal Regulations Parts 160 and 164 (the "HIPAA Privacy Rule"). In the event of an inconsistency between the provisions of this Agreement and the mandatory provisions of the HIPAA Privacy Rule, as amended, the Privacy Rule shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Privacy Rule, but are nonetheless permitted by the Privacy Rule, the provisions of this Agreement shall control. All regulatory references in this Agreement are to HIPAA Privacy Rule unless otherwise specified.

Business Associate. "Business Associate" shall mean (Basil Bernstein MD).

Covered Entity. "Covered Entity" shall mean the County of Alameda, Behavioral Health Care Services, a part of the County of Alameda "hybrid entity" subject to the Standards for Privacy of Individually Identifiable Health Information set forth in 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E ("County").

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).

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.

Protected Health Information. "Protected Health Information" (PHI) 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 Business Associate from or on behalf of Covered Entity.

Required By Law. "Required by law" shall have the same meaning as the term "required by law" in section 164.501.

Secretary. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.

Obligations Related to the Uses and Disclosures of PHI

(a) Business Associate acknowledges and agrees that all PHI that is created or received in any form (including paper record, oral communication, audio recording and electronic display) by Business Associate on Covered Entity's behalf or is created or received in any such form by Covered Entity or its operating units and disclosed or made available to Business Associate pursuant to this Agreement shall be subject to these additional provisions and to the provisions of the Privacy Rule as currently written or subsequently amended. In the event of a conflict between the terms of this Exhibit and the provisions of the Privacy Rule currently in effect, the provisions of the Privacy Rule shall control.

(b) Business Associate may use or disclose PHI as follows:
Contract #3931

(1) Business Associate provides services for the Covered Entity that involve the use of PHI which services are described in this Agreement. Except as otherwise specified herein, Business Associate may use PHI to the limited extent necessary to perform its obligations as set forth in this Agreement. In so doing, Business Associate may disclose PHI for the purposes authorized by this Agreement to its employees and to its subcontractors and agents in conformity with the provisions of paragraph (g) below. Uses and disclosures of PHI in connection with the performance of functions, activities, or services for, or on behalf of, Covered Entity as specified in this Agreement, are permitted provided that such uses or disclosures would not violate the Privacy Rule if done by Covered Entity.

(2) Business Associate may use and disclose PHI as permitted in Sections 164.502(j)(1) and 164.504.

(c) Business Associate agrees to not use or further disclose PHI other than as permitted or required by the Agreement or as Required by Law.

(d) Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of the PHI other than as provided for by this Agreement.

(e) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement. Mitigation includes, but is not limited to, the taking of reasonable steps to ensure that the actions or omissions of employees of Business Associate do not cause Business Associate to breach the terms of this Agreement.

(f) Business Associate agrees to report to Covered Entity any use or disclosure of the PHI, of which it becomes aware, that is not directly related to Business Associate's performance of the Scope of Work set forth in this Agreement.

(g) Business Associate agrees to ensure that any employee or agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information. Business Associate shall not subcontract with respect to this Agreement without the advanced consent of Covered Entity.

(h) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the Privacy Rule. Business Associate further agrees that upon written request, it will make available during normal business hours at Business Associate’s offices all records, books, agreements, policies and procedures relating to the use and or disclosure of PHI to the Covered Entity within a reasonable time period for purposes of enabling the Covered Entity to determine Business Associate’s compliance with the terms of this Agreement.

(i) To the extent Business Associate is required to make PHI available to an Individual pursuant to Sections 164.524 and/or 164.526, Business Associate shall do so solely by way of coordination with Covered Entity.

(j) Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528. Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, such documentation and other related information
to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

Obligations upon Termination or Expiration of Agreement

(k) Covered Entity has the right to terminate this Agreement as set forth in this Agreement and as otherwise permitted by applicable state and federal law. In the event of termination for any reason, or upon the expiration of this Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(l) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity 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, Business Associate shall extend the protections of this 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 Business Associate maintains such Protected Health Information.

Miscellaneous

(m) Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.

(n) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104–191.

(o) Survival. In addition to the provisions with respect to survival as set forth in this Agreement, the following shall apply. The respective rights and obligations of Business Associate with respect to PHI in the event of termination, cancellation or expiration of this Agreement shall survive said termination, cancellation or expiration of this Agreement, and shall continue to bind Business Associate, its agents, employees, contractors and successors as set forth herein.

(p) Third Parties. Nothing express or implied in this Agreement is intended to confer, nor anything herein shall confer, upon any person other than the parties hereto any rights, remedies, obligations or liabilities except as expressly stated in the Privacy Rule.

(q) Preemption. The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of PHI under the HIPAA Privacy Rule. The use and disclosure of individually identified health information is also covered by applicable California law. To the extent that California law is more stringent with respect to the protection of such information, applicable California law shall govern Business Associate's use and disclosure of confidential information related to the performance of this Agreement.

(r) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.

Revised 6/25/03
QUESTIONNAIRE FOR DETERMINING THE WITHHOLDING STATUS

INSTRUCTIONS: This questionnaire is to be completed by the County department for services contracts and must be included as part of the contract package submitted to Human Resource Services Department (HRSD). Be sure to answer all of the questions in Sections I and II and to complete the certifications on page 2. Sections III and IV contain supplemental questions to be answered for contractors in certain service categories.

CONTRACTOR NAME: __Dr. Basil Bernstein__ DEPT #: 440

TITLE/SERVICE: Consultant Child Psychiatry

DEPT. CONTACT: RICHARD SINGER, MD PHONE: 567-8111 or 38111

I. INFORMATION ABOUT THE CONTRACTOR

1. Is the contractor a corporation or partnership? ( ) (x)

2. Does the contractor have the right per the contract to hire others to do the work agreed to in the contract? ( ) (x)

If the answer to BOTH questions is YES, provide the employer ID number here: ________________________________.

No other questions need to be answered. Withholding is not required.

If the answer to question 1 is NO and 2 is YES, provide the individual social security number here: ________________________________

No other questions need to be answered. Withholding is not required.

If the answer to question 2 is NO, continue to Section II.

II. RELATIONSHIP OF THE PARTIES

1. Does the County have the right to control the way in which the work will be done, i.e., will the County be able to specify the sequence of steps or the processes to be followed if it chooses to do so? ( ) (x)

2. Is the contractor restricted from performing similar services for other businesses while he is working for the County? ( ) (x)

3. Will the contractor be working for more than 50% of the time for the County (50% = 20 hrs/wk; 80 hrs/mo)? ( ) (x)

4. Is the relationship between the County and the contractor intended to be ongoing? ( ) (x)
III. FOR CONSULTANTS, PROJECT MANAGERS, PROJECT COORDINATORS

1. Is the contractor being hired for a period of time rather than for a specific project? ( ) (x)

2. Will payment be based on a wage or salary (as opposed to a commission or lump sum)? ( ) (x)

IV. FOR PHYSICIANS, PSYCHIATRISTS, DENTISTS, PSYCHOLOGISTS

1. Will the agreement be with an individual who does not have an outside practice? ( ) (x)
   
   1.a. Will the contractor work more than an average of ten hours per week? ( ) (x)
   
   IF THE ANSWER TO 1.a IS YES, ANSWER QUESTIONS 1.b.
   
   1.b. Will the County provide more than 20% of the contractor's income? ( ) (x)

2. If the answer to either question 1.a, or if required, question 1.b is NO, the entire answer is NO.

A "yes" answer to any of the questions in Section II, or, if applicable, Sections III or IV constitutes justification for paying the contractor through the payroll system as an "employee for withholding purposes."

CERTIFICATIONS:

I hereby certify that the answers to the above questions accurately reflect the anticipated working relationship for this contract.

[Signature]

Contractor

Agency/Department Head or Designee

April 9, 2009

[Signature]

Date

HRSD APPROVAL REQUIRED FOR ALL STANDARD SERVICES AGREEMENTS:

[Signature]

Date: 4/20/09

Title: Human Resources Analyst