

**CONTRACT AND AGREEMENT
SUMMARY SHEET**

Contract Name: (Ex: John Smith, or Acme Welding Co., etc.) Tuolumne County Office of Education	Contract Number: To be assigned by CAO office MOU 10-0155-00
Contractor's Address: 175 South Fairview Lane, Sonora, CA 95370	Contractor's Phone #:

W-9 Attached (Payment will not be made until W-9 is received)

Effective Date of Contract: From: 10/08/10 To: 06/30/11

Duration 8 months Year(s) Month(s) Week(s) Day(s)

Is this contract a renewal? Yes No

If so, what is the previous contract number? n/a

Is this contract to be approved by the Board of Supervisors? Pertains to new contracts over \$50,000. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	OR Purchasing Agent Approved? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
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Type of Contract or Agreement:	Goods/ Services	Land/ Buildings	Franchise	Lease Purchase Agreements	Grants	Other
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Is this contract with a : Check all that apply	Minority <input checked="" type="checkbox"/>	Local Contractor <input type="checkbox"/>	Major (Over \$100,000) <input type="checkbox"/>
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Is this contract a Grant: If yes, is the Grant a :	Yes <input type="checkbox"/> If yes, a Grant Information Request must be filled out. Federal <input type="checkbox"/> OR State <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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Originating County Department: Behavioral Health	Contact Person: Tracie Riggs	Contact Phone #: x6265
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Budget Account Number: various Maximum Cost of the Contract: \$983,656.00

Special Notation/Comments: This Agreement is to ensure that mental health assessments are conducted and the necessary mental health-related services are provided as required by students with disabilities.

Prepared By: Denise Powell (H.S.A.)	Date Prepared: 12/21/10
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**MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF TUOLUMNE BEHAVIORAL HEALTH
DEPARTMENT ("COUNTY") AND THE TUOLUMNE COUNTY
OFFICE OF EDUCATION (TCOE)**

FOR: CHILDREN'S MENTAL HEALTH SERVICES

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this 8th day of October, 2010, by and between the TUOLUMNE COUNTY BEHAVIORAL HEALTH DEPARTMENT, hereinafter referred to as "COUNTY", and the TUOLUMNE COUNTY OFFICE OF EDUCATION, hereinafter, referred to as "TCOE."

WITNESSETH:

WHEREAS, Government Code Section 7570 et seq. (AB 3632) required counties and their Mental Health Divisions to conduct mental health assessments and to provide necessary mental health-related services, including residential care-based treatment, required by students with disabilities who are identified within the individualized education program, pursuant to Government Code sections 7570, 7572, and 7572.5; and

WHEREAS, the Budget Act requires each county office of education and county mental health agency to enter into a Memorandum of Understanding (MOU) for the purpose of transferring federal grant funds, subject to the fulfillment of the grant's terms and conditions, to the county mental health agency (CMHA) for specified mental health services that are provided for eligible students in the school districts;

WHEREAS, the County and TCOE currently have a Memorandum of Understanding through June 30, 2011 allowing for transfer of federal funding through the Individuals with Disabilities Education Act (IDEA) to the County for provision of mental health services identified within a student's individualized education plan (IEP);

WHEREAS, the Tuolumne County Special Education Local Plan Area (SELPA) and the Tuolumne County Behavioral Health Department are currently revising an Interagency Agreement developed to describe the process by which necessary special education and related services are provided to qualifying individuals with special needs in efficient and cooperative service delivery;

WHEREAS, on October 08, 2010, Governor Arnold Schwarzenegger signed the 2010-11 state budget and used his line-item veto authority to eliminate all funding associated with AB 3632 and declared this mandate suspended;

WHEREAS, suspension of this mandate shifts the cost of providing mental health services from county mental health to local school districts;

WHEREAS, if the suspended mandate is overturned by the Courts, the parties will abide by the requirements of applicable law; and

WHEREAS, the COUNTY and TCOE are committed to ensuring there is no interruption or discontinuation in services to the population of children served by AB 3632,

NOW, THEREFORE, in consideration of their mutual covenants and conditions, the parties hereto agree as follows:

1. TERM

The term of this Agreement shall commence on October 08, 2010, and shall continue until June 30, 2011.

2. PROJECT

Tuolumne County Office of Education (TCOE) and County mutually agree that while the county mandate to provide AB3632 services is suspended, both parties will work diligently to effect a smooth transition of responsibility to schools, and that local schools would be responsible for the cost and provision of services provided during and after any transition period.

A. Array of Services- The array of services will be provided for a child with a Disability, as defined in paragraph (3) of Section 1401 of Title 20 of the United States Code, and shall include those related services as defined in paragraph (26) of Section 1401 of Title 20 of the United States Code, and designated instruction and services, as defined in Section 56363 of the Education Code, the California Code of Regulations, Title 2, Division 9, Section 60020(i); and in the most current version of the State Mandates Claims Parameters and Guidelines.

B. Referrals and Assessment Reports. COUNTY and TCOE agree to abide to the policies and procedures for making student referrals and providing the necessary assessment reports as mandated in Government Code Section 7576 and clarified in Title 2, Division 9, California Code of Regulations Section 60040.

3. COMPENSATION

A. While the State of California suspends AB3632, TCOE will compensate the COUNTY for costs and services provided by COUNTY after the date of suspension of AB 3632 (October 08, 2010). Services to be provided by COUNTY may include, but are not limited to: case management, therapeutic behavioral services (TBS), medication services, crisis response, all quarterly travel/staffing costs to/from residential facilities both in and out of state, including

all mental health treatment costs, incurred subsequent to the suspension of AB 3632, for students deemed eligible for services under an Individualized Education Plan (IEP) placed in residential settings by an IEP team.

Between the date of mandate suspension and execution of the MOU, TCOE agrees to reimburse County for any and all costs incurred including all mental health treatment services and residential costs by January 15, 2011, based on the billing rates described in Sections 3 B. and 3 C. Should TCOE not have sufficient funds to pay by this date, the obligation to reimburse the County will continue beyond the termination and/or expiration of this MOU.

B. The billing rates for the Tuolumne County Behavioral Health Department will be the State Maximum Allowable by minute as follows:

- a. Crisis Intervention.....\$3.88
- b. Medication Services.....\$4.82
- c. Out Patient.....\$2.61
- d. Brokerage/Case Management.....\$2.02

C. While AB3632 is suspended, the County will provide detailed invoices on a monthly basis to the County Office of Education for payment. The invoices will include the student's name, educationally-related mental health services provided, the amount of services, and the cost. TCOE will remit payment to COUNTY within thirty (30) calendar days from date of invoice.

- 1. In the event a student is eligible for Medi-Cal, the amount reflected on the invoice for payment will only be the match amount required.
- 2. TCOE will be responsible to pay all non-county provider costs, including residential board and care, and mental health treatment. TCOE shall make payments for residential care and supervision based on the group home rates established by the California Department of Social Services or the rate-setting authority of another state.
- 3. County will forward all invoices directly to TCOE. TCOE will be responsible to remit payment in full to the individual facilities/service providers.

4. HOLD HARMLESS

Contractor shall indemnify, defend, save, protect and hold harmless County, its governing body, officers, employees, representatives, volunteers and agents

("County") from any and all demands, losses, claims, costs, suits, liabilities and expenses for any damage, injury or death (collectively "Liability") arising directly or indirectly from or connected with the services provided hereunder which is caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, consultants, or any person under its direction or control and will make good to and reimburse County for any expenditures, including reasonable attorney's fees, the County may make by reason of such matters and, if requested by County, will defend any such suits at the sole cost and expense of Contractor. Contractor's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of the County or any other person; provided, however, that Contractor shall not be required to indemnify County for the proportion of Liability a court determines is attributable to the negligence or willful misconduct of the County.

If such indemnification becomes necessary, the County Counsel for the County shall have the absolute right and discretion to approve or disapprove of any and all counsel employed to defend the County. This indemnification clause shall survive the termination or expiration of this Agreement.

5. ASSIGNMENT

This Agreement is for the professional services of the Contractor and he or she shall not assign, subcontract or sublet any part of this Agreement without the express written consent of County. Any assignment without the express written consent of the County is VOID.

6. NOTICE

Any and all notices, reports or other communications to be given to County or Contractor shall be given to the persons representing the respective parties at the following addresses:

CONTRACTOR:

Superintendent of Schools
Tuolumne County Office of Education
175 South Fairview Lane
Sonora, CA 95370

COUNTY:

Ann Connolly, Director
County of Tuolumne Human Services Agency
20075 Cedar Road North
Sonora, CA 95370

7. COMPLIANCE

Contractor agrees to comply with all applicable county, state, and federal laws.

8. NON-DISCRIMINATION

Contractor agrees to provide services without discrimination based on race, creed, color, ethnic or linguistic identification, gender or sexual preference, disability or handicap or any other basis prohibited by law.

9. ENTIRE AGREEMENT AND MODIFICATION

This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and supersedes all prior agreements and representations with respect to the subject matter hereof. This Agreement may only be modified by a written amendment hereto, executed by both parties, however, matters concerning the scope of services which do not affect the agreed price may be modified by mutual written consent of the Contractor and the Director of the Human Services Agency.

10. ENFORCEABILITY AND SEVERABILITY

The invalidity or enforceability of any term or provisions of this Agreement shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

11. TERMINATION AND RIGHTS UPON TERMINATION

At any time and without cause, the COUNTY or TCOE shall have the right to terminate this MOU by giving thirty (30) days written notice to the other party. In the event of such termination, all payments for services rendered are payable in full.

COUNTY declares its intent to terminate this MOU without any further notice to TCOE should TCOE not timely compensate COUNTY. If TCOE should fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, COUNTY may terminate this MOU by giving TCOE written notice of such termination, stating the reason for such termination.

12. COST DISCLOSURE

In accordance with California Government Code Section 7550, CONTRACTOR agrees to state in a separate portion of any filed report the numbers and amounts of all contracts and subcontracts relating to the preparation of the report.

13. LAWS AND VENUE

This MOU shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this MOU, the action shall be brought in a state or federal court situated in the County of Tuolumne, State of California, unless otherwise specifically provided for under California law.

14. DISPUTE RESOLUTION

COUNTY and TCOE agree that the following process will be used to address disputes on the implementation of the MOU only after collaborative efforts have been attempted at the lowest possible level.

By December 14 of 2010, and for any extension of this MOU beyond 2011, COUNTY and TCOE will name a mutually agreed upon administrator of a county department or agency to assist to resolve disputes using a process of facilitated communication through non-binding Tuolumne CMHA and TCOE mediation. The parties will use the following process:

A written notice of the request for dispute resolution, including a description of the concerns to be addressed, shall be forwarded by the agency initiating the dispute to the non-initiating party.

If the issue is not resolved within five (5) business days, the agency initiating the dispute shall request that the outside party be contacted to schedule a meeting between the agencies.

No later than sixty (60) calendar days from the date mediator is contacted, a resolution plan between the two agencies will be developed.

The responsible COUNTY and TCOE personnel services shall be responsible for assuring the agreements included in the resolution plan are implemented. The costs for this service shall be shared equally between the COUNTY and TCOE.

15. NO WAIVER

The failure to exercise any right to enforce any remedy contained in this Agreement shall not operate as to be construed to be a waiver or relinquishment of the exercise of such right or remedy, or of any other right or remedy herein contained.

16. AUTHORITY

All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement are in full compliance. Further, by entering

into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

17. CONFIDENTIALITY

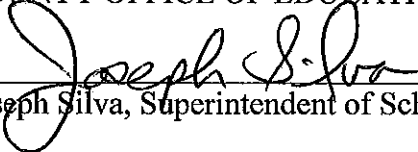
The COUNTY and TCOE acknowledge the protections afforded to student health information under regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. No. 104-191, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act"), students records under the Family Educational Rights and Privacy Act (FERPA), 20 USC Section 1232g; and under provisions of state law relating to privacy. COUNTY and Tuolumne COE shall ensure that all activities undertaken under this MOU will conform to the requirements of these laws.

18. WARRANTY


County has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby warrants that all work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release.

This Agreement is entered into this 8th day of October 2010 by and between the undersigned parties.

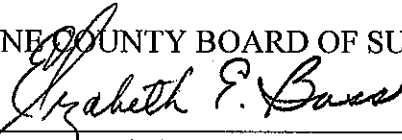
COUNTY OFFICE OF EDUCATION


Joseph Silva, Superintendent of Schools
12-7-10
Date

APPROVED BY THE OFFICE OF COUNTY COUNSEL


Christopher Schmidt, Deputy County Counsel
12/7/10
Date

TUOLUMNE COUNTY BOARD OF SUPERVISORS


Elizabeth E. Bass, Chair of the Board
12/14/10
Date

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

ALICIA L. JAMAR
Clerk of the Board
By: 