COUNTY OF LOS ANGELES

MARVIN J. SOUTHARD, D.S.W.
Director

SUSAN KERR
Chief Deputy Director

RODERICK SHANER, M.D.
Medical Director

550 SOUTH VERMONT AVENUE, LOS ANGELES, CALIFORNIA 90020

Reply To: (213) 738-4601
Fax No.: (213) 386-1297

BOARD OF SUPERVISORS
GLORIA MOLINA
YVONNE BRATHWAITE BURKE
ZEV YAROSLAVSKY
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MICHAEL D. ANTONOVICH

DEPARTMENT OF MENTAL HEALTH

http://dmh.co.la.ca.us

October 7, 2004

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

22 OCT 19 2004

Violet Varona-Lukens
VIOLET VARONA-LUKENS
EXECUTIVE OFFICER

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

APPROVAL OF REQUEST TO WAIVE CONTRACT LANGUAGE ON A ONE-TIME BASIS AND APPROVAL OF REQUEST FOR APPROPRIATION ADJUSTMENT FOR SENATE BILL (SB) 90 PAYMENTS TO MENTAL HEALTH SERVICE PROVIDERS FOR FISCAL YEARS 2000-2001, 2001-2002, and 2002-2003 (ALL SUPERVISORIAL DISTRICTS) (4 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve, on a one-time basis, the request to waive contract language authorizing the Department of Mental Health (DMH) to pay mental health service providers for Assembly Bill (AB) 3632 services delivered in Fiscal Years (FYs) 2000-2001, 2001-2002, and 2002-2003 prior to receipt of State Senate Bill (SB) 90 funds.

2. Approve and instruct the Director of Mental Health or his designee to prepare, sign, and execute amendments, using a previously Board-approved format (Attachment I), to 22 existing DMH Legal Entity (LE) Agreements, identified on Attachment II, for FY 2002-2003 only. Effective upon Board approval, the amendments increasing FY 2002-2003 Maximum Contract Amounts (MCAs) will enable DMH to pay 22 AB 3632 mental health service providers for AB 3632 services prior to receipt of State SB 90 funds.

3. Delegate authority to the Director of Mental Health or his designee to prepare, sign, and execute future amendments to the Agreements and establish as a new MCA the aggregate of the original Agreement and all amendments through and including these amendments, provided that: 1) the County's total payments to Contractor under the Agreement for each fiscal year shall not exceed an increase

of 20 percent from the applicable revised MCA; 2) any such increase shall be used to provide additional services or to reflect program and/or policy changes; 3) the Board of Supervisors has appropriated sufficient funds for all changes; 4) approval of County Counsel and the Chief Administrative Officer or their designees is obtained prior to any such Amendment; 5) the parties may, by written Amendment, mutually agree to reduce programs or services without reference to the 20 percent limitation; and 6) the Director of Mental Health shall notify the Board of Supervisors of Agreement changes in writing within 30 days after execution of each Amendment.

4. Approve the Request for Appropriation Adjustment (Attachment III) for $15,049,000 for FY 2004-2005. The appropriation increase will provide spending authority to DMH to reimburse AB 3632 mental health service providers for contracted services to Seriously Emotionally Disturbed (SED) children in FYs 2000-2001, 2001-2002, and 2002-2003. The $15,049,000 is fully funded with the Sales Tax Realignment funds in the DMH Sales Tax Realignment Trust account.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

Your Board's approval of this request is necessary because it will enable mental health service providers identified in Attachment II to be reimbursed for prior year State mandated AB 3632 mental health services that were rendered but not paid for at this time by the State. Payment of these services by the County before the receipt of State funds will assist the mental health service providers with their cash flow.

This request would authorize DMH to use the Sales Tax Realignment funds in the DMH Sales Tax Realignment Trust account, on a one-time, non-precedent setting basis only, to pay mental health service providers for AB 3632 services prior to receipt of State SB 90 funds:

	Payments	
FY 2000-2001	*$ 2,423,320*	*24 providers*
FY 2001-2002	*9,873,741*	*36 providers*
FY 2002-2003	*2,752,084*	*22 providers*
	$15,049,145	

The present fiscal conditions of the State are such that the State has been unable to provide its SB 90 payments for AB 3632 services in a timely manner, creating additional multi-year cash flow problems for mental health service providers. A partial interim solution to this cash flow problem is to redirect unexpended FY 2004-2005 Sales Tax Realignment funds in the DMH Sales Tax Realignment Account Trust to pay mental

health service providers for AB 3632 services delivered in FYs 2000-2001, 2001-2002, and 2002-2003. This will provide some cash flow relief to mental health service providers, thereby allowing for the continuance of AB 3632 services, without interruption, pending fulfillment of the State's payment obligations. Once the SB 90 claiming process is completed and the State validates the SB 90 services for FYs 2000-2001, 2001-2002, and 2002-2003, there may be an adjustment to the mental health service providers' SB 90 final payments.

Implementation of Strategic Plan Goals

The recommended Board actions are consistent with the County's Organizational Goal No. 4, "Fiscal Responsibility," within the Countywide Strategic Plan. This action will enable DMH to make payments to mental health service providers for AB 3632 services provided to SED children in FYs 2000-2001, 2001-2002, and 2002-2003. In addition, it will provide cash flow relief to mental health service providers, thereby allowing for the continuance of AB 3632 services, without interruption, pending fulfillment of the State's payment obligations.

FISCAL IMPACT/FINANCING

There is no increase in net County cost.

The Department proposes to utilize $15,049,145 from the Sales Tax Realignment Trust account balance to pay mental health service providers for prior year SB 90 service claims. Upon receipt of State SB 90 funds, the County will redirect such funds back to repay the Sales Tax Realignment Trust account.

While it is the expectation that the State will ultimately reimburse the County and its mental health service providers for these services, the parties agree that, given the urgent circumstances, it is vital that services continue to be rendered without interruption. The County will accept responsibility for these payments for approved AB 3632 services in the event the State does not pay for them, in the absence of fraud or other wrongdoing on the part of the mental health service providers.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

In 1984, the California legislature enacted AB 3632 in order to maximize and coordinate the provision of mental health services to SED children. Prior to FY 2002-2003, the State gave DMH an annual allocation of $2.78 million as categorical funding to pay for mandated AB 3632 services. Since the costs incurred by the County in providing those services far exceeded the categorical funding, the County was reimbursed the excess

costs through the SB 90 mandate reimbursement process. However, in the FY 2002-2003 State Budget, the State eliminated the $2.78 million categorical funding, and implemented an indefinite moratorium on SB 90 mandate reimbursement to the County.

The County serves as an intermediary role between contracted mental health service providers and the State for AB 3632 mental health services for SED children through the SB 90 reimbursement process, which was designed to enable local governments to recover from a net financial injury that results from this State mandated program.

The claiming process for determining "net financial injury" that results from the State's mandated AB 3632 program is lengthy and involves the following three steps: 1) a SB90 claim showing net financial injury is prepared based on what is reported in the cost report; 2) the State performs a Short-Doyle/Medi-Cal (SD/MC) reconciliation that validates SB90 services; and 3) DMH incorporates the State's SD/MC reconciliation into its settlement process, thereby establishing true and accurate SB90 costs, and determines net financial injury. This three-step claiming process normally takes 20-22 months after the close of the fiscal year and may result in an adjustment to the mental health service providers' SB90 final payments.

Since July 1, 2002, the County has not received any State funding to pay for the mental health services provided to more than 6,000 disabled students in Los Angeles County. The County does not expect to receive any SB 90 funds from the State until FY 2006-2007 and the following years. The State has planned a five-year payout period. Therefore, the DMH proposes to use the Sales Tax Realignment Trust account balance to fund the $15,049,145. Upon receipt of State payment, the Department will retain the State funds.

Since March 4, 2003, this will be the fifth action taken by your Board to reimburse mental health service providers for prior year AB 3632 services not reimbursed to them by the State. On March 4, 2003, your Board approved a $6,119,448 payment for FY 2002-2003; on June 17, 2003, your Board approved a $3,212,595 payment for FY 2002-2003; on June 23, 2003, your Board approved a $2,130,000 payment for FYs 2000-2001 and 2001-2002; and on July 1, 2003, a $320,166 payment for FY 2000-2001. The July 1, 2003 action was in response to a June 10, 2003 Board-approved Motion directing the Chief Administrative Officer, Auditor-Controller, and DMH to submit recommendations on any redirecting of unspent and/or additional unallocated funds for SB 90 payments to mental health service providers for FYs 2000-2001 and 2001-2002 claims. This proposed fifth action of $15,049,145 will bring the total County SB 90 assistance to mental health service providers to $26,831,354 for FYs 2000-2001, 2001-2002, and 2002-2003.

The existing DMH LE Agreement SB 90 boilerplate language changed in FY 2002-2003. FYs 2000-2001 and 2001-2002 language stated, "SB 90 funds **are not** part of the Maximum Contract Amount(s) of this Agreement and shall be paid by County to Contractor solely in County's capacity as the SB 90 claim intermediary between the Contractor and the State...Contractor shall be paid by County from SB 90 funds upon receipt from the State"; FY 2002-2003 language stated, "SB 90 funds **are** part of the Maximum Contract Amount(s) of the Agreement and shall be paid by County to Contractor solely in County's capacity as the SB 90 claim intermediary between the Contractor and the State... Contractor shall be paid by County from SB 90 funds upon receipt from the State."

DMH is contractually bound to compensate mental health service providers for the AB 3632 mental health services provided pursuant to the provisions of the Agreement upon receipt of State SB 90 funds. Therefore, in accordance with the above referenced contract language and with Board approval to waive, on a one-time basis, the contract language that states, "Contractor shall be paid by the County from SB 90 funds upon receipt from the State," this action will result in $15,049,145 being paid by County to mental health service providers prior to receipt of SB 90 funds from the State.

As stated earlier, while it is the expectation that the State will ultimately reimburse the County and its mental health service providers for these services, the parties agree that, given the urgent circumstances, it is vital that services continue to be rendered without interruption. The County will accept responsibility for these payments for approved AB 3632 services in the event the State does not pay for them, in the absence of fraud or other wrongdoing on the part of the mental health service providers.

Therefore, DMH is requesting an appropriation increase of $15,049,145 that will allow payment for FYs 2000-2001, 2001-2002, and 2002-2003 to mental health service providers. Upon receipt of State SB 90 funds, the County will redirect such funds back to repay the DMH Sales Tax Realignment Trust account.

CONTRACTING PROCESS

For FYs 2000-2001 and 2001-2002, where SB 90 funds were not part of the MCA, this subject does not apply. For FY 2002-2003, DMH will amend 22 LE Agreements identified in Attachment II to allow mental health service providers to be reimbursed for continually providing State-mandated AB 3632 services.

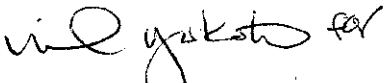
IMPACT ON CURRENT SERVICES

Board approval of this request will allow for continued and uninterrupted AB 3632 mental health services rendered to Los Angeles SED beneficiaries. In addition, it will enable DMH to make SB 90 payments to mental health service providers to maintain cash flow.

CONCLUSION

The Department of Mental Health will need one (1) copy of the adopted Board's action. It is requested that the Executive Officer of the Board notifies the Department of Mental Health's Contracts Development and Administration Division at (213) 738-4684 when this document is available.

Respectfully submitted,



Marvin J. Southard, D.S.W.
Director of Mental Health

MJS:GSK:MY:RK:aw

Attachments (3)

c: Chief Administrative Officer
County Counsel
Auditor-Controller
Chairperson, Mental Health Commission

AW: SB90 brd ltr

Attachment I

CONTRACT NO. DMH-_____

AMENDMENT NO. _____

THIS AMENDMENT is made and entered into this _____ day of _____, 2004, by and between the COUNTY OF LOS ANGELES (hereafter "County") and _____ (hereafter "Contractor").

WHEREAS, County and Contractor have entered into a written Agreement, dated _____, identified as County Agreement No. DMH-_____ and any subsequent amendments (hereafter collectively "Agreement"); and

WHEREAS, for Fiscal Year 2002-2003 only, County and Contractor intend to amend Agreement only as described hereunder; and

WHEREAS, the present fiscal conditions of the State of California are such that the State is apparently unable to provide its SB 90 payments for AB 3632 services in a timely manner, which circumstances were not anticipated or contemplated by the parties; and

WHEREAS, AB 3632 services derive from a legal mandate and are critical to the recipients thereof; and

WHEREAS, the parties have agreed upon a partial interim solution to this cash flow problem, on a one-time, non-precedent setting basis only, which will

provide some relief to Contractor and allow for the continuance of AB 3632 services, without interruption, pending fulfillment of the State's payment obligations; and

WHEREAS, Contractor understands that County has devoted a limited fund for this purpose, that payments are being made to other similarly situated providers which exhaust the fund, and that, accordingly, there are no other funds presently available for these purposes; and

WHEREAS, in consideration for Contractor's continuing to provide AB 3632 services under this Agreement, notwithstanding the inability of the State to meet its payment obligations in a timely manner, County agrees to pay Contractor $_____ _____ as a partial payment for services rendered to date for Fiscal Year 2002-2003 only. It is understood that such services otherwise qualify for payment under the terms and conditions of the Agreement; and

WHEREAS, for Fiscal Year 2002-2003, the revised Maximum Contract Amount will be $_____.

NOW THEREFORE, the parties agree to amend the Agreement for Fiscal Year 2002-2003 only, on a one-time, non-precedent setting basis only, as follows:

1. Paragraph 4 (FINANCIAL PROVISIONS), Subparagraph B (Reimbursement for Initial Period) shall be deleted in its/their entirety and the following substituted therefor:

(1) "B. Reimbursement For Initial Period: The Maximum Contract Amount for the Initial Period of this Agreement as described in Paragraph 1 (TERM) shall not exceed _____.

_____

DOLLARS ($_____) and shall consist of County, State, and/or Federal funds as shown on the Financial Summary. This Maximum Contract Amount includes Cash Flow Advance which is repayable through cash and/or appropriate SFC units and/or actual and allowable costs as authorized by other provisions of this Agreement. Notwithstanding any other provision of this Agreement, in no event shall County pay Contractor more than this Maximum Contract Amount for Contractor's performance hereunder during the Initial Period. Furthermore, Contractor shall inform County when up to seventy-five percent (75%) of the Maximum Contract Amount has been incurred. Contractor shall send such notice to those persons and addresses which are set forth in Paragraph 57 (NOTICES).

2. Financial Summary - for Fiscal Year 2002-2003 shall be deleted in its entirety and replaced with Financial Summary - for Fiscal Year 2002-2003 attached hereto and incorporated herein by reference. All references in Agreement to Financial Summary - for Fiscal Year 2002-2003) shall be

deemed amended to state "Financial Summary - for Fiscal Year 2002-2003."

3. While it is the expectation that the State will ultimately reimburse Contractor for these services, the parties agree that, given the urgent circumstances and the need for the continuation of the services without interruption, County will accept responsibility for this payment for approved services in the event the State does not pay for them, in the absence of fraud or other wrongdoing on the part of Contractor.

4. The agreements set forth in this Amendment are made notwithstanding Paragraph DD of the Agreement, which the parties agree will be waived for these purposes, on this one-time only basis and for this Fiscal Year 2002-2003 only, and only to the extent of the payment by County provided for by this Amendment. Paragraph DD will otherwise apply with full force and effect.

5. Contractor shall provide services in accordance with the Contractor's Fiscal Year 2002-2003 Negotiation Package for this Agreement and any addenda thereto approved in writing by Director.

6. Except as provided in this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

/

/

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment to be subscribed by County's Director of Mental Health or his designee, and Contractor has caused this Amendment to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

COUNTY OF LOS ANGELES

By _____
MARVIN J. SOUTHARD, D.S.W.
Director of Mental Health

_____
CONTRACTOR

By _____

Name _____

Title _____
(AFFIX CORPORATE SEAL HERE)

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL

APPROVED AS TO CONTRACT
ADMINISTRATION:

DEPARTMENT OF MENTAL HEALTH

By _____
Chief, Contracts Development
and Administration Division

AW:SB90 Amendment Format (DMHCON)

Attachment II

COUNTY OF LOS ANGELES
DEPARTMENT OF MENTAL HEALTH
SB90 REIMBURSEMENT TO CONTRACT PROVIDERS
FY 2000-01, FY 2001-02, and FY 2002-03

LE #	Legal Entity Name	FY 2002-03	FY 2001-02	FY 2000-01	TOTAL AMOUNT OWED PROVIDERS
00519	Aspen Health Services	$ -	$ 44,470	$ -	$ 44,470
00173	Associated League of Mexican Americans (ALMA)	-	56,866	-	56,866
00178	Cedar-Sinai Medical Center	-	39,424	-	39,424
00207	Child & Family Guidance (SFV Child Guidance Clinic)	294,677	1,222,501	-	1,517,178
00210	Child and Family Center (Santa Clarita Valley Child & Family)	-	1,265,984	678,108	1,944,092
00783	ChildNet Youth and Family Services, Inc.	-	12,435	-	12,435
00179	Children's Hospital of Los Angeles	44,527	61	13,062	57,650
00591	Children's Institute International	1,308	22,188	-	23,496
00181	Community Family Guidance Center	5,923	173,134	43,636	222,693
00472	Devereux Foundation	56,991	8,434	-	65,425
00183	Didi Hirsch Psychiatric Service	46,391	323,930	33,320	403,641
00184	Dubnoff Center for Child Development	-	39,754	-	39,754
00778	D'Veal Corporation	-	5,310	2,184	7,494
00185	El Centro de Amistad	7,962	516		8,478
00188	ENKI Health & Research Systems, Inc.	-	347,213	-	347,213
00647	Five Acres	-	28,724	24,089	52,813
00724	Foothill Family Service	-	70,444	-	70,444
00174	Hamburger Home, Inc. (Aviva Center)	-	123,601	42,612	166,213
00206	Harbor View Rehabilitation Center (Regency Health)	-	-	4,845	4,845
00192	Hathaway Children and Family Services	-	613,248	240,807	854,055
00321	Hillsides (Church Home of Children)	77,039	206,186	46,804	330,029
00171	Institute for the Redesign of Learning (Almansor Center)	-	155	48,209	48,364
00195	Intercommunity Child Guidance Center	-	121,130	8,828	129,958
00199	Los Angeles Child Guidance Clinic	62	-	-	62
00315	Los Angeles Unified School District	223,041	199,782	34,207	457,030
00971	McKinley Children's Center, Inc.	30,238	5,131	-	35,369
00203	Pacific Clinics	396,555	984,561	9,829	1,390,945
00204	Pasadena Children's Training Society	-	169,109	88,776	257,885
00201	Penny Lane Center (National Foundation)	144	-	-	144
00320	Research and Treatment Institute, Inc.	839	-	-	839
00208	SFV CMHC	-	42,933		42,933
00558	SHIELDS for Families Project, Inc.	-	283	2,127	2,410
00213	South Bay Children's Health Center	-	45,137	23,914	69,051
00214	Special Service for Groups	28,421	49,644	-	78,065
00217	St. John's Hospital	84,182	348,362	121,165	553,709
00543	Star View Adolescent Center	18,647	66,942	32,335	117,924
00216	Strling Academy, Inc.	426,003	443,601	306,555	1,176,159
00191	The Guidance Center (Greater Long Beach Child Guidance Ctr)	96,277	-	49,637	145,914
00198	The Help Group Child and Family Center (L.A. Ctr for Therapy)	384,926	788,532	14,168	1,187,626
00221	Verdugo Mental Health Center	109,524	428,905	72,739	611,168
00196	Vista del Mar Child and Family Services(Jewish Orphans)	418,407	1,575,111	481,364	2,474,882
	TOTAL NGAs	$ 2,752,084	$ 9,873,741	$ 2,423,320	$ 15,049,145

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ATTACHMENT III

76R 352M (11/83)

BOARD OF SUPERVISORS OFFICIAL COPY

COUNTY OF LOS ANGELES

REQUEST FOR APPROPRIATION ADJUSTMENT

DEPARTMENT OF MENTAL HEALTH

DEPT'S. NO. 435

19

AUDITOR-CONTROLLER.

THE FOLLOWING APPROPRIATION ADJUSTMENT IS DEEMED NECESSARY BY THIS DEPARTMENT. WILL YOU PLEASE REPORT AS TO ACCOUNTING AND AVAILABLE BALANCES AND FORWARD TO THE CHIEF ADMINISTRATIVE OFFICER FOR HIS RECOMMENDATION OR ACTION.

ADJUSTMENT REQUESTED AND REASONS THEREFOR

4-VOTES

Sources:	Uses:
Department of Mental Health State Realignment Revenue A01-MH-20500-8899 $15,049,000	Department of Mental Health Services & Supplies A01-MH-20500-2000 $15,049,000

This adjustment is requested to increase the appropriation for Services and Supplies to provide spending authority for the reimbursement of AB3632 mental health service providers for contracted services to seriously emotionally disturbed children in FYs 2000-2001, 2001-2002, and 2002-2003. This adjustment is fully funded with one-time sales tax realignment revenue in the Department of Mental Health's Sales Tax Realignment Trust Account. There is no impact on net County cost.

Marvin J. Southard, D.S.W.
Director of Mental Health

CHIEF ADMINISTRATIVE OFFICER'S REPORT

REFERRED TO THE CHIEF ADMINISTRATIVE OFFICER FOR — ACTION ✓ RECOMMENDATION

APPROVED AS REQUESTED ✓ AS REVISED

OCTOBER 7, 2004

DAVID E. JANSSEN
CHIEF ADMINISTRATIVE OFFICER

AUDITOR-CONTROLLER BY

NO

APPROVED (AS REVISED): BOARD OF SUPERVISORS 19

BY