File No. 120408 Committee Item No. 6
Board Item No. _____

# COMMITTEE/BOARD OF SUPERVISORS

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**Committee:** Budget and Finance Sub-Committee **Date** May 16, 2012

**Board of Supervisors Meeting** **Date** _____

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**OTHER** **(Use back side if additional space is needed)**

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**Completed by:** Victor Young **Date** May 11, 2012
**Completed by:** Victor Young **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Contract Amendment - Addiction, Research, and Treatment, Inc., dba BAART - $27,209,317]

**Resolution approving an amendment to the contract with Addiction, Research, and Treatment, Inc., dba BAART, for methadone maintenance services to $27,209,317.**

WHEREAS, The Department of Public Health selected Addiction, Research and Treatment, Incorporated dba BAART through a Request for Proposals (RFP 06-2008) issued on March 13, 2008, which provided for an initial contract term of one year with options to renew annually to a maximum term of ten years; and

WHEREAS, The contract enables services to approximately 866 clients annually of the Community Behavioral Health system at two community-based facilities on Market Street and Turk Street for methadone maintenance treatment for male, female, and transgender adults, and persons under the age of eighteen years on a case by case basis, and a methadone maintenance treatment service at Turk Street specifically for pregnant and post-partum women with parenting, nutrition, and education classes, medical and pediatric care, and group and individual counseling and case management, and

WHEREAS, The original contract, in the amount of $8,202,621, was for a one and one-half year term of July 1, 2010 through December 31, 2011, which is hereby declared to be a part of this resolution as if set forth fully herein; Amendment One, in the amount of $9,990,000, extends the contract to a five year term, from July 1, 2010 through June 30, 2015 and

WHEREAS, The Department of Public Health wishes to increase the contract amount by $17,219,317; now, therefore, be it

RESOLVED, That the Board of Supervisors authorizes the Director of Public Health and the Office of Contract Administration, on behalf of the City and County of San Francisco, to amend the contract with Addiction, Research and Treatment, Incorporated dba BAART for methadone maintenance services to increase the contract from $9,990,000 for the period of July 1, 2010, through June 30, 2015, to $27,209,317 for the period of July 1, 2010, through June 30, 2015.

APPROVED:

Barbara A. Garcia
Director of Health

APPROVED:

Mark Morewitz
Secretary, Health Commission

| Item 6<br>File 12-0408 | Department:<br>Public Health |
|---|---|

## EXECUTIVE SUMMARY

### Legislative Objective

- The Department of Public Health (DPH) has an existing agreement with Addiction, Research & Treatment, Incorporated (known as BAART), a non-profit organization, for a not-to-exceed amount of $9,990,000 and a 5-year term from July 1, 2010 through June 30, 2015. The proposed resolution would approve the second amendment to the existing agreement between DPH and BAART to (1) increase the not-to-exceed amount by $17,219,317, from $9,990,000 to $27,209,317; and (2) add three one-year options to extend the agreement from July 1, 2015 through June 30, 2018.

### Key Points

- DPH entered into an agreement with BAART, based on a competitive Request for Proposals (RFP) in July 2010. Under the agreement, BAART provides methadone maintenance and support services to clients. DPH reimburses BAART for these services based on BAART's costs of providing the services.
- The RFP provided for an agreement term of up to 10 years. The original agreement term was for 18 months, from July 1, 2010 through December 31, 2011. DPH entered into the first amendment to the agreement in July 2011, which extended the term by 3 years and 6 months, from December 31, 2011 through June 30, 2015 for a total agreement term of 5 years. The proposed second amendment does not extend the existing agreement term but adds three one-year options to extend the agreement from (1) July 1, 2015 through June 30, 2016; (2) July 1, 2016 through June 30, 2017; and (3) July 1, 2017 through June 30, 2018. Each of the future three one-year options to extend the agreement would be subject to Board of Supervisors approval if the not-to-exceed amount of the agreement for each option increases by $500,000 or more.
- The original agreement not-to-exceed amount for the 18-month term from July 1, 2010 through December 31, 2011 was $8,202,621. Under the first amendment, the not-to-exceed amount increased to $9,990,000.

### Fiscal Impact

- The not-to-exceed amount of $27,209,317 under the proposed second amendment includes $24,294,033 for services plus a 12% contingency of $2,915,284 for the entire 5-year term of the agreement from July 1, 2010 through June 30, 2015.
- The 12% contingency should be calculated, based only on the expenditures in the remaining term of the agreement from July 1, 2012 through June 30, 2015, and should not be based on the agreement's total not-to-exceed amount, which includes prior years' expenditures in addition to prospective expenditures.
- Calculating the 12% contingency on the remaining term of the agreement from July 1, 2012 through June 30, 2015 would reduce the contingency by $1,166,252, from $2,915,284 under the proposed second amendment to $1,749,032; and reduce the total not-to-exceed amount by $1,166,252, from $27,209,317 under the proposed second amendment to $26,043,065.

### Policy Consideration

- DPH established a policy in 2005 to include contingencies of 12% in their professional services contracts, in response to the 2002 Citywide Nonprofit Contracting Task Force recommendation that City departments should streamline their internal contracting processes to reduce delays in contract payments to nonprofit agencies. The DPH contingency policy was primarily implemented to allow flexibility in modifying professional services agreements with nonprofit agencies (a) due to changes in available funding from various funding sources; and (b) if a service provider is unable to meet service levels, resulting in the need to transfer services to another provider. The Budget and Legislative Analyst will evaluate DPH's policy for including contingencies in professional services contracts as part of our current audit of DPH's professional services contracting policies.

### Recommendations

- Amend the proposed resolution to reduce the total agreement not to-exceed amount by $1,166,252, from $27,209,317 to $26,043,065, in order to adjust for the correct contingency amount.
- Approve the proposed resolution as amended.

## MANDATE STATEMENT / BACKGROUND

### Mandate Statement

In accordance with City Charter Section 9.118, agreements exceeding ten years and/or having anticipated expenditures of $10,000,000 or more, or amendments to such agreements exceeding $500,000, are is subject to approval by the Board of Supervisors.

### Background

The Department of Public Health (DPH) entered into an agreement with Addiction, Research & Treatment, Incorporated (known as BAART), a non-profit organization, based on a competitive Request for Proposals (RFP) in July 2010. Under the agreement, BAART provides methadone maintenance and support services to clients. DPH reimburses BAART for these services based on BAART's costs of providing the services.

The original agreement was for the 18 month period from July 1, 2010 through December 31, 2011, for a not-to-exceed amount of $8,202,621. DPH entered into the first amendment to the agreement, extending the term of the agreement by 3 years and 6 months from December 31, 2011 through June 30, 2015. Therefore, the total agreement term is five years, from July 1, 2010 through June 30, 2015. Under the first amendment, the not-to-exceed amount was increased to $9,990,000, or $10,000 less than the amount of $10,000,000 that requires Board of Supervisors approval.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the second amendment to the agreement to:

(1) Increase the not-to-exceed amount by $17,219,317, from $9,990,000 to $27,209,317; and

(2) Add three one-year options to extend the agreement from July 1, 2015 through June 30, 2018.

BAART provides three methadone maintenance programs.

ART Turk Services are provided at 433 Turk Street for adults addicted to heroin and other opioids. These services include methadone maintenance, medical examinations, individual and group counseling, screening for HIV and other infectious diseases, and other support services.

ART Facet Services are provided at 433 Turk Street for adult women who are pregnant or are parenting children up to two years of age and addicted to heroin and other opioids. Services include methadone maintenance, medical examinations, parenting classes, nutritional education and supplements, individual and group counseling, screening for HIV and other infectious diseases, and other support services.

ART Market Clinic Services are provided at 1111 Market Street for adults receiving cash aid and other social services, including General Assistance, and CalWorks clients through a work order between DPH and the Human Services Agency (HSA).[1]

### Agreement Term

The RFP for the methadone maintenance programs provided for an agreement term of up to 10 years. The existing agreement term is for five years, from July 1, 2010 through June 30, 2015.

The proposed second amendment does not extend the existing agreement term but adds three one-year options to extend the agreement from (1) July 1, 2015 through June 30, 2016; (2) July 1, 2016 through June 30, 2017; and (3) July 1, 2017 through June 30, 2018. Each of the future three one-year options to extend the agreement would be subject to Board of Supervisors approval if the not-to-exceed amount of the agreement for each option increases by $500,000 or more.

### Agreement Expenditures

The existing agreement specifies the units of services to be provided by BAART to clients for each of the three programs and BAART's operating costs to provide these services. As shown in Table 1 below, the actual projected units of service provided by BAART are less than the units of service specified in the existing agreement in FY 2010-11 and FY 2011-12.

[1] Previously, BAART served individuals in the HSA's PAES (Personal Assisted Employment Services) program, but the work order between DPH and HSA for these services terminated in February 2011.

**Table 1**
**Budgeted and Actual Units of Service Provided by BAART**
**FY 2010-11 and FY 2011-12 (Projected)**

| | FY 2010-11 | FY 2011-12 (Projected) | Total |
|---|---|---|---|
| Budgeted Units of Service | 475,104 | 420,969 | 896,073 |
| Actual Units of Service | 390,193 | 391,073 | 781,266 |
| **Budget Less Actual** | **84,911** | **29,896** | **114,807** |

Source: DPH

Because actual units of service provided by BAART are less than the units of service specified in the agreement, actual projected DPH payments to BAART from July 1, 2010 through June 30, 2012 of $9,288,464 are $701,536 less than the amount budgeted in the agreement of $9,990,000, as shown in Table 2 below.

**Table 2**
**Budgeted and Actual DPH Payments to BAART**
**FY 2010-11 and FY 2011-12 (Projected)**

| | FY 2010-11 | FY 2011-12 (Projected) | Total |
|---|---|---|---|
| Budget for Services | $4,860,345 | $4,858,422 | $9,718,767 |
| Contingency (2.8%) | 135,643 | 135,590 | 271,233 |
| Total Budget | 4,995,988 | 4,994,012 | 9,990,000 |
| Actual | 4,643,464 | 4,645,000 | 9,288,464 |
| **Budget Less Actual** | **$352,524** | **$349,012** | **$701,536** |

Source: DPH

### Contract Funding

According to Ms. Michelle Ruggels, DPH Director of Operations, the FY 2011-12 agreement budget of $4,858,422 consists of $4,670,942, or 96.1%, funded from State and Federal MediCal funds and $187,480, or 3.9%, funded from the City's General Fund.

## FISCAL IMPACT

As shown in Table 3 below, the proposed second amendment would increase the total agreement not-to-exceed amount by $17,219,317, from $9,990,000 under the first amendment to $27,209,317, for the period from July 1, 2010 through June 30, 2015.

**Table 3**
**Total Not-to-Exceed Amount in the Proposed Second Amendment**

| Not to Exceed Amount | First Amendment | Proposed 2nd Amendment | Increase |
|---|---|---|---|
| Services | | | |
| July 1, 2010 - June 30, 2012 | $9,718,767 | $9,718,767 | $0 |
| July 1, 2012 - June 30, 2015 | n/a | 14,575,266 | 14,575,266 |
| Subtotal, Services | 9,718,767 | 24,294,033 | 14,575,266 |
| Contingency | 271,233 | 2,915,284 | 2,644,051 |
| Total | $9,990,000 | $27,209,317 | $17,219,317 |
| Contingency Percent | 2.8% | 12.0% | |

Under the proposed second amendment, DPH has calculated a 12% contingency based on the total not-to-exceed amount of $24,294,033 over the 5-year term of the agreement, including the past period from July 1, 2010 through June 30, 2012.The 12% contingency should be calculated, based only on the expenditures in the remaining term of the agreement from July 1, 2012 through June 30, 2015, and should not be based on the agreement's total not-to-exceed amount, which includes prior years' expenditures in addition to prospective expenditures.

As shown in Table 4 below, calculating the 12% contingency on the remaining term of the agreement from July 1, 2012 through June 30, 2015 would reduce the contingency by $1,166,252, from $2,915,284 under the proposed second amendment to $1,749,032; and reduce the total not-to-exceed amount by $1,166,252, from $27,209,317 under the proposed second amendment to $26,043,065.

**Table 4**
**Proposed Reduction**

| Not to Exceed Amount | Contingency Calculated on Total Not to Exceed Amount From: July 1, 2010 through June 30, 2015 | Contingency Calculated on Total Not to Exceed Amount From: July 1, 2012 through June 30, 2015 | Proposed Reduction |
|---|---|---|---|
| Services | | | |
| July 1, 2010 - June 30, 2012 | $9,718,767 | $9,718,767 | $0 |
| July 1, 2012 - June 30, 2015 | 14,575,266 | 14,575,266 | 0 |
| Subtotal, Services | 24,294,033 | 24,294,033 | 0 |
| Contingency (12%) | 2,915,284 | 1,749,032 | (1,166,252) |
| Total | $27,209,317 | $26,043,065 | ($1,166,252) |

Therefore, the Budget and Legislative Analyst recommends a reduction of $1,166,252 in the agreement not-to-exceed amount, from $27,209,317 to $26,043,065 as shown in Table 4 above.

## POLICY CONSIDERATION

DPH established a policy in 2005 to include contingencies of 12% in their professional services contracts, in response to the 2002 Citywide Nonprofit Contracting Task Force recommendation that City departments should streamline their internal contracting processes to reduce delays in contract payments to nonprofit agencies. The DPH contingency policy was primarily implemented to allow flexibility in modifying professional services agreements with nonprofit agencies (a) due to changes in available funding from various funding sources; and (b) if a service provider is unable to meet service levels, resulting in the need to transfer services to another provider. The Budget and Legislative Analyst will evaluate DPH's policy for including contingencies in professional services contracts as part of our current audit of DPH's professional services contracting policies.

## RECOMMENDATIONS

1. Amend the proposed resolution to reduce the total agreement not to-exceed amount by $1,166,252, from $27,209,317 to $26,043,065, in order to adjust for the correct contingency amount.
2. Approve the proposed resolution as amended.

City and County of San Francisco
Office of Contract Administration
Purchasing Division

** Complete copy of document is located in

File No. 120408

Second Amendment

THIS AMENDMENT (this "Amendment") is made as of **April 1, 2012**, in San Francisco, California, by and between **Addiction, Research and Treatment, Incorporated dba BAART, Inc.** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City") acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the contract period, increase the contract amount, and update standard contractual clauses;

WHEREAS, approval for this Amendment was obtained when the Civil Service Commission approved Contract number **4150-09/10** on **June 21, 2010**;

NOW, THEREFORE, Contractor and the City agree as follows:

1. **Definitions.** The following definitions shall apply to this Amendment:

**1a. Agreement.** The term "Agreement" shall mean the Agreement dated July 1, 2010 from the RFP 06-2008, dated March 13, 2008, Contract Numbers BPHM11000077 and DPHM11000343 between Contractor and City, as amended by
First Amendment dated July 1, 2011, Contract Numbers BPHM11000077 and DPHM12000026 and This Second Amendment.

**1b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. **Modifications to the Agreement.** The Agreement is hereby modified as follows:

**2a. Section 2. Term of the Agreement** currently reads as follows.

**2. Term of the Agreement**

Subject to Section 1, the term of this Agreement shall be from July 1, 2010 to June 30, 2015.

**Such section is hereby amended in its entirety to read as follows:**

**2. Term of the Agreement**

Subject to Section 1, the term of this Agreement shall be from July 1, 2010 to June 30, 2015.

City and County of San Francisco
Office of Contract Administration
Purchasing Division

** Complete copy of document is located in

File No. 120408

First Amendment

THIS AMENDMENT (this "Amendment") is made as of July 1, 2011, in San Francisco, California, by and between **Addiction, Research and Treatment, Incorporated dba BAART, Inc.** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City") acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the contract period, increase the contract amount, and update standard contractual clauses;

WHEREAS, approval for this Amendment was obtained when the Civil Service Commission approved Contract number **4152-09/10** on **June 21, 2010**;

NOW, THEREFORE, Contractor and the City agree as follows:

**1. Definitions.** The following definitions shall apply to this Amendment:

**1a. Agreement.** The term "Agreement" shall mean the Agreement dated July 1, 2010 from the RFP 06-2008, dated March 13, 2008, Contract Numbers BPHM11000077 and DPHM12000026 between Contractor and City, as amended by the this First Amendment.

**1b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**2a. Section 2. Term of the Agreement** currently reads as follows:

2. Term of the Agreement

Subject to Section 1, the term of this Agreement shall be from July 1, 2010 to December 31, 2011.

**Such section is hereby amended in its entirety to read as follows:**

2. Term of the Agreement

Subject to Section 1, the term of this Agreement shall be from July 1, 2010 to June 30, 2015.

**2b. Section 5. Compensation** of the Agreement currently reads as follows:

5. Compensation

Compensation shall be made in monthly payments on or before the 30th day of each month for work, as set forth in Section 4 of this Agreement, that the Director of the Public Health Department, in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Eight Million Two Hundred Two Thousand Six Hundred Twenty One Dollars ($8,202,621).** The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685

** Complete copy of document is located in File No. 120408

Agreement between the City and County of San Francisco and

Addiction, Research & Treatment, Incorporated dba BAART

This Agreement is made this 1st day of **July, 2010**, in the City and County of San Francisco, State of California, by and between: **Addiction, Research & Treatment, Incorporated dba BAART, 1111 Market Street, 4th Floor, San Francisco, California 94103**, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing."

**Recitals**

WHEREAS, the Department of Public Health, Population Health and Prevention, Substance Abuse, ("Department") wishes to provide opioid dependent substance abuse treatment and education services to adult men and women, including pregnant women and participants in the PAES program; and,

WHEREAS, a Request for Proposal ("RFP") was issued on 03/13/2008, and City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract; and,

WHEREAS, approval for this Agreement was obtained when the Civil Service Commission approved Contract number 4152-09/10 on 06/21/2010;

Now, THEREFORE, the parties agree as follows:

1. **Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation.** This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

2. **Term of the Agreement.** Subject to Section 1, the term of this Agreement shall be from **July 1, 2010** to **December 31, 2011**.

3. **Effective Date of Agreement.** This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

File No. 120408

# FORM SFEC-126:
# NOTIFICATION OF CONTRACT APPROVAL

(S.F. Campaign and Governmental Conduct Code § 1.126)

| **City Elective Officer Information** *(Please print clearly.)* | |
|---|---|
| Name of City elective officer(s):<br>Members, Board of Supervisors | City elective office(s) held:<br>Members, Board of Supervisors |

| **Contractor Information** *(Please print clearly.)* | |
|---|---|
| Name of contractor:<br>Addiction Research and Treatment, Inc. dba Bay Area Addiction Research and Treatment, Inc. | |
| *Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.*<br>1. Please see list of members of Board of Directors attached.<br>2. _Evan Kletter, Ph.D., CEO; Jason Kletter, Ph.D., President, Helen Cabiles, CFO; Ed Barisone, EVP Finance<br>3. Persons with more than 20% ownership: Evan Kletter, Ph.D., 33%, Jason Kletter, Ph.D., 33%, Michelle Kletter, 33%.<br>4. Subcontractors listed in contract: ____None_____.<br>5. Political committees sponsored or controlled by contractor: _None___. | |
| Contractor address:<br>1111 Market Street, Fourth Floor, San Francisco, CA 94103 | |
| Date that contract was approved: | Amount of contract:<br>$27,209,317 |
| Describe the nature of the contract that was approved:<br>Methadone treatment services | |
| Comments: | |

This contract was approved by (check applicable):

☐ the City elective officer(s) identified on this form

x☐ a board on which the City elective officer(s) serves San Francisco Board of Supervisors
Print Name of Board

☐ the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

_____
Print Name of Board

| **Filer Information** *(Please print clearly.)* | |
|---|---|
| Name of filer:<br>Angela Calvillo, Clerk of the Board | Contact telephone number:<br>(415) 554-5184 |
| Address:<br>1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102 | E-mail:<br>Board.of.Supervisors@sfgov.org |

_____ _____
Signature of City Elective Officer (if submitted by City elective officer) Date Signed

_____ _____
Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk) Date Signed