Health Services
LOS ANGELES COUNTY

Los Angeles County
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John F. Schunhoff, Ph.D.
Interim Director of Health Services

Robert G. Splawn, M.D.
Interim Chief Medical Officer

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November 5, 2008

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 NEW PHYSICIAN SPECIALTY MEDICAL SERVICES AGREEMENTS (SUPERVISORIAL DISTRICT 2) (3 VOTES)**

## SUBJECT

Authorize the Interim Director of Health Services to execute three new Part-Time/Intermittent Physician Specialty Medical Services Agreements to replace expiring Metrocare Physician Specialty Medical Services Agreements.

## IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and authorize the Interim Director of Health Services, or his designee, to offer and sign new Part-Time/Intermittent Physician Specialty Medical Services Agreements, substantially similar to Exhibit I, which satisfy traditional Civil Service exceptions permitting contracts and which are exempt under the provisions of Proposition A under County Code 2.121, with the three contractors identified in Attachment A, who have been County employees within the immediately preceding 12 months and who currently provide services under Metrocare Physician Specialty Medical Services Agreements at Martin Luther King, Jr. Multi-Service Ambulatory Care Center (MLK MACC) that will expire on November 30, 2008, at Board-approved rates of payment currently on file at the Department of Health Services (DHS), effective December 1, 2008 through June 30, 2011, at a total annual estimated net County cost of $629,850.

2. Make a finding pursuant to Los Angeles County Code section 2.180.010 that special circumstances exist which justify the approval of Physician Specialty Medical Services Agreements

with three physician specialists who have been County employees within the immediately preceding 12 months.

## PURPOSE/JUSTIFICATION OF THE RECOMMENDED ACTION

The Metrocare Physician Specialty Medical Services contract program will expire on November 30, 2008. Three of the expiring physician Agreements for specialty medical services to patients at MLK MACC will not be eligible to be converted, under delegated authority, to standard Part-Time/Intermittent Physician Specialty Medical Services Agreements before they expire because the three contract physicians have been County employees within the immediately preceding 12 months.

DHS continues to have an urgent need to contract for the hard-to-recruit specialty medical services covered under the three expiring Metrocare physician Agreements. Approval of the recommended actions will allow the Department to continue to meet the projected patient visit volume stipulated in the Health Management Associates MLK MACC Report to provide physician services in the specialty areas of radiology, otolaryngology, and pediatric dermatology at MLK MACC.

## IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommended actions support Goal 1, Service Excellence and Goal 7, Health and Mental Health of the County's Strategic Plan.

## FISCAL IMPACT/FINANCING

The estimated annual expenditure for the new Agreements is approximately $629,850. Funding is included in the Fiscal Year 2008-09 Final Budget and will be requested in future fiscal years.

The hourly rates and maximum contract obligations for the Agreements are on file with the Department and are kept confidential in accordance with Section1457 of the California Health and Safety Code.

## FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On December 19, 2006, your Board approved the Department's request to enter into Metrocare Physician Specialty Medical Services Agreements, effective December 19, 2006 through November 30, 2007, to support the restructuring of Martin Luther King, Jr.-Harbor Hospital (MLK-H) to a MACC. Your Board made a finding pursuant to Los Angeles County Code section 2.180.010 that special circumstances existed which justified the approval of Metrocare Physician Specialty Medical Services Agreements with physicians who had been County employees within the immediately preceding 12 months. During the initial term of the contract program, 15 Agreements with physician

specialists who had been County employees within the immediately preceding 12 months were executed for Metrocare-related physician services at MLK-H, Harbor-UCLA Medical Center, and LAC+USC Medical Center.

On November 20, 2007, your Board approved a one-year extension amendment to the Metrocare physician Agreements, made a finding pursuant to Los Angeles County Code section 2.180.010 that special circumstances existed which justified entering into physician services Agreements with physicians who had been County employees within the immediately preceding 12 months, and delegated authority to the Department to enter into new Metrocare physician Agreements, as needed, effective December 1, 2007 through November 30, 2008. During the term of the extension amendment, three new Agreements with physician specialists who had been County employees within the immediately preceding 12 months were executed for Metrocare-related physician services at MLK-H.

With the expiration of the Metrocare Physician Specialty Medical Services contract program slated for November 30, 2008, all of the Metrocare physician contracts except for three have been, or are in the process of being converted, under delegated authority, to standard Part-Time/Intermittent Physician Specialty Medical Services Agreements, or were not extended beyond November 30, 2007. The remaining three contractors identified in Attachment A who left County employment to become Metrocare physician contractors between April and August of 2008, are not eligible to be moved onto standard Part-Time/Intermittent Physician Specialty Medical Services Agreements under delegated authority until mid-2009. Without a special circumstances exemption from the contract prohibition for the three contractors, there will be a lapse in the provision of critically-needed, hard-to-recruit specialty medical services in the areas of radiology, otolaryngology, and pediatric dermatology to patients at MLK MACC.

Dr. Lorenzo Brown is the only otolaryngologist (ENT – ear, nose and throat specialist) remaining at MLK MACC after the Medical School Affiliation Agreement with Drew University was terminated. None of the other Metrocare physicians being transferred onto standard Part-Time/Intermittent Physician Specialty Medical Services Agreements provide this specialty. If a contracting prohibition exemption is not granted for Dr. Brown, this may result in an estimated 65 percent reduction of ENT services to the community and the inability to meet patient visit projections for this clinic.

Dr. Marcia Glenn is a board-certified pediatric dermatologist at MLK MACC. The facility's plan is to increase the dermatology clinic sessions, especially pediatrics, from once a month to once every week to meet patient volume projections. This volume increase necessitates that more providers be available to meet the community demand.

For the last several years, MLK MACC has encountered increasing difficulty in recruiting and retaining qualified physician radiologists. Dr. Vaughn Payne is the former Lead Physician of the Department of Radiology at MLK MACC. He is the only radiologist among the Metrocare physicians being transferred onto the standard physician agreements, and has been on staff at MLK since 1990. He reads all of the film volumes requested by the MLK MACC Ancillary Services including the Urgent Care Center.

The Department will continue to provide medical malpractice defense and indemnification for direct patient care under these Agreements as part of its contract consideration.

Under the termination provisions of the Agreements, either party may terminate the Agreement with a 30-day advance written notice to the other party. The County's right to terminate is delegated to the Interim Director of Health Services under the contract's express terms. The Interim Director also has delegated authority to terminate immediately if a contractor demonstrates a consistent failure to adhere to a Medical Facility's policies and procedures or the contractual requirements.

County Counsel reviewed and approved Exhibit I as to use and form.

## CONTRACTING PROCESS

Under the Metrocare Physician Specialty Medical Services contract program, the Department interviewed those County employees who intended to leave County service to determine their interest in the Metrocare contract opportunities. Once identified, potential physician specialists were required to complete a certification questionnaire, which was reviewed and approved by County Counsel and is on file with the Department, to determine medical practice history, including the occurrence of any disciplinary action by the State Medical Board. Additionally, the Department queried the National Data Bank and the State Medical Board to determine whether the candidates have any disciplinary or malpractice history over the prior three years. Those with an adverse history would have been disqualified from participation in the contract opportunity.

To participate in the Physician Specialty Medical Services contract program, all physicians must: (1) either be Board certified or Board eligible in an area of specialty recognized by the American Medical Association; (2) meet the credentialing requirements of each County hospital, which includes a review of the physician's malpractice history; (3) join the medical staff; and (4) comply with the Professional Staff Association Bylaws of the County hospital at which the physician will be placed.

## IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of these recommendations will enable the Department to continue to provide physician specialty medical services in several hard-to-recruit specialty areas vital to the provision of patient care at MLK MACC and to meet the Health Management Associates Report for increasing clinic efficiencies.

When approved, DHS requires three signed copies of the Board's action.

Respectfully submitted,

John F. Schunhoff, Ph.D.
Interim Director of Health Services

JFS:pps

Attachments (2)

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors

Physician Specialty Medical Services BL

Attachment A

## EXPIRING METROCARE
## PHYSICIAN SPECIALTY MEDICAL SERVICES
## CONTRACT PROVIDERS
## (Requiring Special Circumstances Exemption from 12-Month Contract Prohibition)

| Provider Name | Contract Number | Medical Specialty | County Termination Date | Facility |
|---|---|---|---|---|
| | | | | |
| Lorenzo Brown, MD, Inc. | 76531 | Otolaryngology | 3/31/08 | MLK MACC |
| Marcia J. Glenn, M.D. | 76619 | Dermatology | 4/16/08 | MLK MACC |
| Vaughn Payne, M.D. | 76638 | Radiology | 7/15/08 | MLK MACC |

EXHIBIT I

Contract # _____
(Physician Services)
(All Facilities)

# PART-TIME/INTERMITTENT PHYSICIAN SPECIALTY MEDICAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2008,

by and between the COUNTY OF LOS ANGELES (hereafter "County"),

and _____ (hereafter "Contractor").

WHEREAS, pursuant to California Health and Safety Code, Sections 1441 and 1445, County has established and operates, through its Department of Health Services, various County hospitals, comprehensive health centers and health centers, including MARTIN LUTHER KING, JR., MULTI-SERVICE AMBULATORY CARE CENTER (hereafter "Medical Facility"); and

WHEREAS, a large number of physician specialty medical services must be available to meet the needs of sick or injured County patients requiring treatment at Medical Facilities; and

WHEREAS, County has determined that it has insufficient physician staff to provide all of the necessary specialty medical services required for its patients; and

WHEREAS, County has further determined that the specialty medical services to be provided hereunder are needed only on a part-time or intermittent basis; and

WHEREAS, in accordance with the provision of part-time or intermittent services, it is the intent of the parties that the services provided pursuant to this Agreement shall be used only to address unanticipated, critical staffing shortages, peak workloads, unexpected emergencies, vacation coverage or service needs that are sporadic or unpredictable in nature such that they do not give rise to the need for a full-time physician; and

WHEREAS, Contractor has been selected by the Department of Health Services in accordance with procedures established by the Board of Supervisors to fill a critically needed specialty position at Medical Facility (applicable only to new agreements with physician contractors which start on or after July 1, 2004); and

WHEREAS, Contractor either is (if not incorporated), or has (if incorporated) as its principal officer, a physician duly licensed and certified under the laws of the State of California to engage in the practice of medicine; and

WHEREAS, Contractor is either Board certified in his or her specialty(ies) or is eligible to take the examination to become Board certified in his or her specialty(ies); and

WHEREAS, Contractor has applied for and been granted membership in Medical Facility's Professional Staff Association and clinical privileges in accordance with such Association's bylaws; and

WHEREAS, County is authorized by California Government Code Sections 26227 and 31000, and by California Health and Safety Code Sections 1441, 1445, and 1451, and by Los Angeles County Code section 2.121.250 B (4) to contract for the part-time or intermittent medical services described hereunder.

NOW, THEREFORE, the parties hereto agree as follows:

1. TERM AND TERMINATION:

A. The term of this Agreement shall commence on the date of its execution by County's Director of the Department of Health Services, or his or her authorized designee (collectively hereafter "Director"), with such date reflected on the top of page 1 of Agreement, and shall continue in full force and effect to and including June 30, 2011. In any event, either party may terminate this Agreement at any time, for any reason, with or without cause, by providing at least thirty (30) calendar days' prior written notice thereof to the other party.

B. Notwithstanding any other provision of this Agreement, Director may find Contractor out of compliance with this Agreement and immediately terminate this Agreement if Contractor has demonstrated a consistent failure to adhere to Medical Facility's policies, procedures, and contractual requirements, as outlined in this Agreement and in the Department of Health Services' and Medical Facility's

Professional Staff Association bylaws, rules, and policy manuals.

C. County may suspend or terminate this Agreement immediately if Contractor's license to practice medicine is suspended or revoked by the State of California (Medical Board of California or California Board of Osteopathy, as appropriate).

D. County's failure to exercise any right of termination under this Paragraph shall not constitute waiver of such right and the same may be exercised at any subsequent time.

E. Director is authorized to execute any necessary or required suspension(s) or termination(s) pursuant to this Paragraph on behalf of County.

F. In conjunction with any suspension or termination of Agreement by County, Contractor understands and acknowledges that she/he shall have no right to any County administrative hearing or other County due process right under Medical Facility's bylaws or other County administrative forum to challenge or appeal such suspension or termination.

G. Unless earlier cancelled or terminated, this Agreement shall concurrently terminate on the date that County either (1) transfers the management and operation of Medical Facility, by sale or management contract (e.g.,

lease of Medical Facility), to a third party, or (2) closes Medical Facility.

2. MAXIMUM OBLIGATION OF COUNTY: During the term of this Agreement, the maximum obligation of County for all services provided hereunder shall not exceed _____ _____ Dollars ($_____) as follows:

A. During the period date of execution by Director through June 30, 2008, the maximum obligation of County shall not exceed __NOT APPLICABLE__ Dollars ($_N/A_); and,

B. During the period date of execution by Director through June 30, 2009, the maximum obligation of County shall not exceed _____ Dollars ($_____);

C. During the period July 1, 2009, through June 30, 2010, the maximum obligation of County shall not exceed _____ Dollars ($_____); and,

D. During the period July 1, 2010, through June 30, 2011, the maximum obligation of County shall not exceed _____ Dollars ($_____).

3. PRIOR AGREEMENT SUPERSEDED: Effective date of execution by Director, this Agreement shall replace and supersede Physician Specialty Medical Services Agreement Contract No. _____ and any and all Amendments thereto.

4. ADMINISTRATION: Director is authorized to administer this Agreement on behalf of County.

5. DESCRIPTION OF SERVICES: Contractor shall provide medical services as set forth in Exhibit "A", attached hereto and incorporated herein by reference.

6. BILLING AND PAYMENT: Contractor shall bill County in accordance with the payment procedures set forth in Exhibit "A".

7. INDEPENDENT CONTRACTOR STATUS:

A. This Agreement is by and between County and Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Contractor. The employees or agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

B. Contractor shall be solely liable and responsible for providing to, or on behalf of, its employees all legally required employee benefits. County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State and local taxes, or other compensation or benefits to any employees provided by Contractor.

C. Contractor understands and agrees that Contractor and all persons furnishing services to County on behalf of

Contractor pursuant to this Agreement are, for purposes of workers' compensation liability, the sole responsibility of Contractor and not the responsibility of County. Contractor shall bear the sole responsibility and liability for any and all workers' compensation benefits to Contractor and any person as a result of injuries arising from or connected with services performed by or on behalf of Contractor pursuant to this Agreement.

8. COUNTY PROFESSIONAL LIABILITY INDEMNIFICATION:

A. County shall indemnify, defend, and save harmless Contractor, its officers, and employees (for purposes of this Paragraph hereafter collectively referred to as "Contractor") from liability, expense and claims for damages resulting from or related to a medical incident arising out of the provision of contract services hereunder. For purposes of this Agreement, a medical incident shall mean any act or omission in the rendering of, or failure to render, medical services, or treatment to County patients by Contractor, at County's Medical Facility, in the performance of Contractor's professional obligations under this Agreement.

B. County's indemnification of Contractor hereunder shall only apply to payments of settlements, judgements, and awards to third parties, including legal defense expenses.

County's indemnification of Contractor hereunder shall further only arise if Contractor's liability is to a County patient or the patient's representative, and the patient, at the time of the medical incident, was assigned to the care of Contractor. To the extent that County is obligated to provide an indemnification program hereunder, County will also provide claims administration and legal defense on behalf of Contractor.

C. Contractor shall give prompt telephonic notice (within twenty-four [24] hours) to Medical Facility's Risk Manager of any incident, action, or claim to which this indemnification applies and shall fully cooperate with County and its claims representatives, in any defense, settlement, or other disposition of such incident, action, or claim. Such telephonic notice shall be immediately followed by written notice to Medical Facility's Risk Manager. Such written notice shall include all of the information listed in County's Risk Management form. Contractor hereby acknowledges receipt of said County Risk Management form.

D. County reserves the right to investigate any incident, action, or claim. In such event, Contractor shall allow County representatives access to the medical records and reports pertaining to the services provided to any

County patient involved in such incident, action, or claim. Contractor shall also allow County representatives access to its employees and agents, if any, who provided services to the County patients involved in such incident, action, or claim.

County's agents, as designated by Director, will consult with Contractor regarding the disposition of any action or claim hereunder. However, County reserves the right to determine the final disposition of any action or claim. In the event Contractor does not agree with County's agents in any defense, settlement, or other disposition of such action or claim, Contractor may pursue defense, settlement, or other disposition of such action or claim independently and County's indemnification obligation with respect to such action or claim shall immediately terminate. In such event, County shall have no financial obligation on behalf of Contractor for liability, expenses, including legal defense fees and expenses, or payments of settlements, judgements, awards, or damages arising out of the medical incident.

E. County shall have no indemnification responsibility or liability for any incident, action, or claim against Contractor where Contractor failed to provide County with prompt telephonic and written notice of such incident, action, or claim, as specified in Subparagraph 6.C. above,

or if Contractor has failed to fully and reasonably cooperate with County and its agents in the defense, settlement, or other disposition of such incident, action, or claim.

In addition, County shall have no indemnification responsibility or liability for any incident, action, or claim against Contractor by patients or their legal representatives, other than those covered specifically by this Agreement. Moreover, this indemnification shall not cover Contractor's damages or expenses arising out of Contractor's willful or criminal misconduct, nor shall it cover the award of any punitive damages.

F. The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement for actions or claims against Contractor.

9. COUNTY GENERAL LIABILITY INDEMNIFICATION: As part of County's consideration under this Agreement, County shall indemnify, defend, and save harmless Contractor, its officers, and employees (in this Paragraph hereafter collectively referred to as "Contractor") from general liability, expense, and claims for damages of third parties resulting from or directly related to the provision of services at County's Medical Facility to County patients under this Agreement, except that this indemnification shall not extend to Contractor's willful or

criminal misconduct or to any Contractor actions which result in the imposition of punitive damages. Nor shall this indemnification cover claims or actions against Contractor arising from Contractor's or his or her employees' negligent use of an automobile or other motor vehicle.

10. CONTRACTOR INDEMNIFICATION: With the exception of the professional liability indemnification and the general liability indemnification provided by County, as stated above, Contractor shall indemnify, defend, and hold harmless County and its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Contractor's acts and/or omissions arising from and/or relating to this Agreement.

11. GENERAL INSURANCE REQUIREMENTS: Without limiting County's indemnification of Contractor, and during the term of this Agreement, Contractor shall provide the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Contractor's own expense.

A. Evidence of Insurance: Certification(s) or other evidence of coverage satisfactory to County shall be

delivered to the parties and locations as listed in Paragraph 13, NOTICES, Subparagraph A, Sub-sub paragraphs (1) and (2), prior to commencing services under this Agreement. Such certificates or other evidence shall:

(1) Specifically identify this Agreement.

(2) Clearly evidence all coverages required in this Agreement.

(3) Contain the express condition that County is to be given written notice by mail at least thirty (30) calendar days in advance of cancellation for all policies evidenced on the certificate of insurance.

(4) Pursuant to Paragraph 12, INSURANCE COVERAGE REQUIREMENTS, include copies of the additional insured endorsement to the commercial general liability policy, adding County of Los Angeles, its Special Districts, its officials, officers, and employees as insureds for all activities arising from this Agreement.

(5) Identify any deductibles or self-insured retentions for County's approval. County retains the right to require Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or, require Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expense or

fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

B. Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

C. Failure to Maintain Coverage: Failure by Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Contractor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

D. Notification of Incidents, Claims, or Suits: Contractor shall report to County:

(1) Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a

claim or lawsuit against Contractor and/or County. Such report shall be made in writing within twenty-four (24) hours of occurrence.

(2) Any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.

(3) Any injury to a Contractor employee which occurs on County property. This report shall be submitted on a County "Non-Employee Injury Report" to County contract manager.

(4) Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies, or securities entrusted to Contractor under the terms of this Agreement.

E. Compensation for County Costs: In the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Contractor shall pay full compensation for all costs incurred by County.

F. Insurance Coverage Requirements for Subcontractors: Contractor shall ensure any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

(1) Contractor providing evidence of insurance covering the activities of subcontractors, or

(2) Contractor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

12. INSURANCE COVERAGE REQUIREMENTS:

A. General Liability Insurance. If Contractor maintains a private medical practice and County patients will receive services at the Contractor's private practice location(s), then Contractor also shall maintain general liability insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

| | |
|---|---|
| General Aggregate: | $2 Million |
| Products/Completed Operations Aggregate: | $1 Million |
| Personal and Advertising Injury: | $1 Million |
| Each Occurrence: | $1 Million |

B. Automobile Liability Insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than $300,000 for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

C. Professional Liability Insurance: Consistent with Medical Facility's Professional Staff Associations' Bylaws governing physician services provided under community hospital status, if Contractor maintains a private medical practice and admits and treats his or her private patients at Medical Facility, or if Contractor maintains a private medical practice and County patients will receive services at the Contractor's private practice location(s), then Contractor shall provide for herself/himself/itself a program of professional liability insurance covering liability arising from any error, omission, negligent or wrongful act of Contractor, its officers or employees, with limits of not less than $1 Million per occurrence and $3 Million aggregate. The coverage also shall provide an extended two year reporting period commencing upon termination or cancellation of this Agreement.

If Contractor does not maintain a private medical practice and does not admit or treat private patients at County's Medical Facility, or if Contractor maintains a private medical practice, but does not treat County patients at Contractor's private practice location(s), then Contractor need not provide for herself/himself/itself a program of professional liability insurance to cover services provided under this Agreement.

D. Workers Compensation and Employer's Liability Insurance: If Contractor utilizes any of its employees or agents in the provision of any medical services at Medical Facility hereunder, as set forth in Exhibit "A", Paragraph 4, then Contractor shall provide workers compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible.

In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

| | |
|---|---|
| Each Accident: | $1 Million |
| Disease - Policy Limit: | $1 Million |
| Disease - Each Employee: | $1 Million |

13. NOTICES: Any and all notices required, permitted, or desired to be given hereunder by one party to the other shall be in writing and may either be delivered personally or sent by registered or certified mail, postage prepaid, return receipt requested, to the parties at the following addresses and to the attention of the parties named. Director is authorized to issue all notices which are required or permitted by County hereunder. Addresses and persons to be notified may be changed by either party by giving ten (10) calendar days prior written notice to the other party.

A. Notices to County shall be addressed as follows:

(1) Martin Luther King, Jr., Multi-Service
Ambulatory Care Center
12021 Wilmington Avenue
Los Angeles, California 90059

Attention: Office of the Administrator

(2) Department of Health Services
Contracts and Grants Division
313 North Figueroa Street, Sixth Floor-East
Los Angeles, California 90012

Attention: Division Director

B. Notices to Contractor shall be addressed as follows:

_____

_____

_____

14. ADDITIONAL PROVISIONS: Attached hereto and incorporated herein by reference, is a document labeled "ADDITIONAL PROVISIONS". The terms and conditions therein contained are part of this Agreement.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be subscribed by its

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/

Director of Health Services, and Contractor has caused this Agreement to be subscribed in its behalf by its duly authorized officer, the day, month and year first above written.

COUNTY OF LOS ANGELES

By _____
John F. Schunhoff, Ph.D.
Interim Director of Health Services

_____
Contractor

By _____
Signature

_____
Printed Name

APPROVED AS TO FORM
BY THE OFFICE OF THE COUNTY COUNSEL

APPROVED AS TO CONTRACT
ADMINISTRATION:

DEPARTMENT OF HEALTH SERVICES
CONTRACTS AND GRANTS DIVISION

(Non Prop. A Physician Services)
(All Facilities: On-Site/On-Call)

# EXHIBIT A

## DESCRIPTION OF SERVICES

## PART-TIME/INTERMITTENT PHYSICIAN SPECIALTY MEDICAL SERVICES

1. SERVICES TO BE PROVIDED: Contractor is a physician, duly licensed to practice medicine in the State of California, Board certified or Board eligible, in her/his specialty and has applied for and been granted medical staff privileges at Medical Facility, MARTIN LUTHER KING, JR., MULTI-SERVICE AMBULATORY CARE CENTER. Contractor shall at all times meet the minimum professional qualifications defined in this Agreement.

For purposes of this Agreement, "County patients" are defined as those patients at Medical Facility who are designated as County patients by the County Medical Facility's Medical Director or his authorized designee (hereafter collectively "Medical Director"), who are inpatients or outpatients, and who are not admitted or treated by medical staff members as private patients under such Medical Facility's community hospital status.

Contractor's services shall be performed only for County patients, as defined above, and shall be under the administrative and professional direction of Medical Director. Medical Facility shall retain professional and administrative responsibility for the services provided under this Agreement. Such services include, but are not limited to, one or more of the following:

A. _____ and related services at times and on dates scheduled in writing by Medical Director. Medical Director shall be responsible for including in Contractor's written schedule all on-site and on-call service hours and further shall be responsible for distinguishing between the two types of service hours on Contractor's written schedule.

Additionally, Medical Director shall assign Contractor only on a part-time or intermittent basis and shall utilize Contractor only to fulfill service needs that arise as a result of unanticipated, critical staffing shortages, peak workloads, unexpected emergencies, vacation coverage or a sporadic or unpredictable need that does not give rise to the need for a full-time physician. Medical Director shall be responsible for including the reason for Contractor's assignment in accordance with the categories set forth herein (e.g., unanticipated, critical staffing shortage, peak workload, unexpected emergency, vacation coverage or sporadic/unpredictable need).

Medical Facility shall maintain such schedules throughout the Agreement term and for a period of five years thereafter for purposes of inspection and audit.

B. Medical consultation services to Medical Facility medical departments, other than department of primary

assignment, concerning County patients, upon written request of Medical Director.

C. Surgical services and appropriate pre-operative medical services (where applicable to Contractor's medical specialty) at Medical Facility, upon written request of Medical Director.

D. Emergency medical services at Medical Facility, including weekends and holidays, upon written request of Medical Director.

E. Upon prior, written approval of Medical Director, administrative services, as requested by Medical Director, to include, but not be limited to:

(1) Participating on Quality Assurance and Utilization Review Committees;

(2) Participating on Medical Facility's medical staff committees;

(3) Participating in Medical Facility's licensure and the Joint Commission reviews;

(4) Participating in Medical Facility's planning and equipment planning activities; and

(5) Developing internal policies and procedures.

F. With prior written approval of Medical Director, continuing medical education ("CME") activities that are directly related to patient care at Medical Facility and

that are not related to the provision of academic services. The primary purpose of approved CME activities shall be to benefit physicians employed by or under contract with the County.

G. Such other medical services at Medical Facility as may be requested by Medical Director in writing, consistent with the terms and conditions of the Agreement.

H. In no event shall Contractor be permitted to work more than 1,767 hours annually in the discharge of all service obligations set forth in this Paragraph 1. The 1,767 annual hour limit shall include all on-site service hours work as well as all on-call service hours.

2. CONTRACTOR'S PROFESSIONAL QUALIFICATIONS:

A. Licenses: All physicians providing services at Medical Facility must be appropriately licensed by the State of California and each must carry her/his current State license (not a copy) while on County premises.

Prior to the effective date of this Agreement, Contractor shall provide Medical Director with a copy of all current licenses, credentials, or certifications required by law for the provision of services hereunder.

B. Board Certification: During the term of this Agreement, Contractor shall continuously have and maintain board certification or board eligibility in her/his

specialty(ies) for which he or she has contracted to provide hereunder.

C. Credentialing Requirements: Contractor must meet the credentialing criteria set forth by Medical Facility prior to providing services under this Agreement. Among other things, Medical Director shall verify the current status of Contractor's licenses, medical clearance(s) (in accordance with Title 22, California Code of Regulations requirements), credentials, certifications, and claims history. Medical Director shall also query the National Data Bank and the State Medical Board about Contractor's background. Medical Director shall discontinue Contractor's services immediately if Contractor either does not meet Medical Facility's credentialing criteria, or Contractor's licenses, credentials, or certifications are not current, or both.

In the event Medical Facility inadvertently utilizes Contractor's services absent the appropriate licenses, credentials, or certifications, Medical Facility shall have no obligation to pay Contractor for services to patients hereunder.

D. Bloodborne Pathogens: Contractor must read and sign a statement that she/he has read the Occupational Safety and Health Administration's ("OSHA's") most current Bloodborne

Pathogens information publications prior to providing services under this Agreement. Medical Director shall be responsible for providing or directing Contractor to the appropriate material prior to Contractor signing this statement. Medical Director shall retain such statement in Contractor's credentialing files.

Failure to comply with the requirements of this Paragraph, as determined by a Medical Facility audit/ compliance review, shall constitute a material breach of this Agreement upon which Director may immediately terminate this Agreement.

E. The Joint Commission: Throughout the term of this Agreement, Contractor shall be in conformance with the applicable continuing education requirements established by the Joint Commission or the State Medical Board or both.

3. STANDARDS OF CARE:

A. All specialty medical services provided hereunder shall be performed in accordance with all applicable and accepted professional and ethical standards of the medical profession and shall be in compliance with all applicable Federal, State, and local laws, ordinances, regulations, rules, and directives, as well as with all applicable regulations, policies, procedures, rules, and directives of Medical Facility, and of its professional staff association.

B. County has established a Quality Assessment and Improvement Committee, composed of County employees appointed by Director to review the services contemplated by this Agreement and to assure a standard of care by Contractor and others which is consistent with the laws of the State and Federal governments, with County's Quality Assessment and Improvement standards, and with the prevailing standards of medical practice in the community. Contractor agrees to adhere to the standards thereby established and to fully cooperate in any review of patient care by County's Quality Assessment and Improvement Committee representatives at Medical Facility.

4. USE OF EMPLOYEES AND AGENTS: Contractor shall not utilize any of its employees or agents in the provision of any medical services at Medical Facility hereunder without obtaining the prior written approval of Medical Director and without otherwise satisfying all other delegation and subcontracting requirements of Agreement. No such employee or agent shall provide services on County premises unless he or she has satisfied all applicable physical examination and immunization requirements of Title 22, California Code of Regulations.

In any event, Contractor shall immediately remove any Contractor employee or agent from the provision of such services at Medical Facility upon receipt of oral or written notice from

Medical Director that the actions of such employee or agent may adversely affect the delivery of health care services.

Regardless of Contractor's use of any employee or agent hereunder, County shall only be obligated to pay for Contractor's personal services hereunder.

5. COMPENSATION:

A. County shall compensate Contractor for his or her on-site professional services performed at Medical Facility on an hourly basis as follows: _____ Dollars ($_____) per each hour of service.

County shall compensate Contractor for scheduled on-call services on an hourly basis at up to fifty percent (50%) of the hourly rate set forth above. During the term of this Agreement, County's compensation for on-call professional services shall be _____ Dollars ($_____) per hour.

If Contractor performs services for less than one hour, payment for that hour shall be reduced by prorating to the number of minutes in the hour worked.

Medical Director shall assure that such medical services were indeed provided and that Medical Facility maintains appropriate time records to reflect the provision of same.

B. In the event this Agreement is suspended, canceled, or terminated, County's payment obligation above shall cease

as of the date of such suspension, cancellation, or termination.

C. Contractor shall pay the wages of his or her employees or agents who may render services hereunder as well as be responsible for all employment obligations and benefits for each employee, including, but not limited to, Federal and State withholding taxes, Social Security taxes, Unemployment Insurance and Disability payments.

D. Contractor agrees that should it perform services not requested and specified in Paragraph 1 above, such services shall be deemed to be a gratuitous effort on the part of Contractor and Contractor shall have no claim against County for such services.

6. BILLING AND PAYMENT:

A. Contractor shall bill County monthly or semi-monthly, in arrears, in accordance with the terms, conditions and rates set forth above. All billings shall clearly reflect and provide reasonable detail of the services for which claim is made, including, but not limited to, type of services provided (e.g., critical care, neonatal care, administrative, etc.), whether such services were provided on-call or on-site, date and hours worked, and the applicable hourly rate.

B. Billings shall be made in duplicate and forwarded promptly to the Medical Facility and to the attention of the Expenditure Management Division. Upon receipt of a complete and correct billing, County shall pay Contractor within thirty (30) working days. Incorrect and/or discrepant billings, as determined by County, will be returned to Contractor for correction before payment is made.

C. Contractor shall not bill any County patient or third-party for services provided under this Agreement; nor shall Contractor accept or receive any cash payment or other compensation from or on behalf of any such patient or third party for such services. Should any such payment be received, Contractor shall immediately notify Medical Facility Administrator of that fact in writing.

D. Contractor shall fully cooperate with Medical Facility staff, and the staff of the County's Treasurer-Tax Collector or any County billing and collection contractor, in billing third-party payers and patients for care provided by Contractor hereunder.

7. PARKING SPACE: When providing services hereunder at Medical Facility, parking for Contractor's vehicle will be made available by Medical Director to Contractor.

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ADDITIONAL PROVISIONS

SPECIALTY MEDICAL SERVICES AGREEMENT

1. RECORDS AND AUDITS:

A. Financial Records: Contractor shall prepare and maintain accurate and complete financial records of its activities and operations as they relate to services provided under this Agreement in accordance with generally accepted accounting principles. Contractor shall also maintain accurate and complete personnel time records and other records of all services provided hereunder. All such records shall include supporting documentation and other information sufficient to fully and accurately reflect Contractor's provision of services hereunder, including, but not limited to, its cost of providing such services and all charges billed to County.

All financial records of Contractor pertaining to this Agreement shall be retained by Contractor for a minimum period of five (5) years following the expiration or earlier termination of this Agreement. During such five (5) years, as well as during the term of this Agreement, all such records shall be retained by Contractor at a location in Southern California and shall be made available during County's normal business hours to representatives of County's Auditor-Controller and the Department of Health Services for purposes of inspection and audit.

B. Patient Records: Contractor shall prepare all appropriate medical records for County patients receiving services hereunder. If a County patient receives services from Contractor at Contractor's private office (a possibility for High Desert Hospital patients only), then Contractor shall also maintain such records on any such patient. Such records shall include, but are not limited to, progress notes and records of services provided in sufficient detail to permit the evaluation of services rendered pursuant to this Agreement. All patient records for patients seen in Contractor's office shall be retained by Contractor for a period of five (5) years following the expiration or earlier termination of this Agreement, unless otherwise required under State law. During such five (5) year period, as well as during the term of this Agreement, all such records shall be retained by Contractor at a location in Los Angeles County and shall be made available upon ten (10) working days prior written notice to authorized representatives of County designated by Director or by County's Auditor-Controller, or both, for purposes of inspection and audit.

C. Knox-Keene Health Care Services Requirements: If Contractor provides medical services hereunder at its private offices, Contractor shall further maintain all

applicable books, documents, and records regarding services rendered to subscribers or enrollees of the Los Angeles County Community Health Plan for a period of five (5) years following the expiration or earlier termination of this Agreement. This obligation shall not be terminated upon expiration or termination of this Agreement.

Director shall have the right to inspect, at reasonable times upon demand during the term of this Agreement and for five (5) years thereafter, Contractor's books, records, and papers relating to: (1) the provisions of health services at Contractor's office to subscribers or enrollees of the Los Angeles County Community Health Plan, (2) the costs thereof, (3) co-payments received by Contractor from subscribers or enrollees and, (4) the financial condition of Contractor.

Contractor shall maintain such records and provide such information to the Commissioner of Corporations as may be necessary for compliance with the provisions of the Knox-Keene Health Care Service Plan Act of 1975 (California Health and Safety Code sections 1340, et seq.) and all rules and regulations adopted pursuant thereto.

D. Federal Access to Records: If, and to the extent that, section 1861(v)(1)(I) of the Social Security Act [42 U.S.C. section 1395(v)(1)(I)] is applicable, Contractor agrees that for a period of five (5) years following the

furnishing of services under this Agreement, Contractor shall maintain and make available, upon written request, to the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States, or to any of their duly authorized representatives, the contract, books, documents, and records of Contractor which are necessary to verify the nature and extent of the cost of services provided hereunder. Furthermore, if Contractor carries out any of the services provided hereunder through a subcontract with a value or cost of Ten Thousand Dollars ($10,000) or more over a twelve month period with a related organization (as that term is defined under Federal law), Contractor agrees that each such subcontract shall provide for such access to the subcontract, books, documents, and records of the subcontractor.

E. Audit Report: In the event that an audit is conducted of Contractor by a Federal or State auditor (including audits conducted by the Medicare and Medi-Cal programs, or both), Contractor shall file a copy of each such audit report(s) with County's Auditor-Controller Department within thirty (30) calendar days of receipt thereof, unless otherwise provided for under this Agreement, or under applicable State or Federal regulations. To the

extent permitted by law, County shall maintain the confidentiality of all such audit report(s).

F. Audit/Compliance Review: In the event County representatives conduct an audit/compliance review of Contractor, Contractor shall fully cooperate with County's representatives. Contractor shall allow County representatives access to all financial reports, medical records, and reports pertaining to this Agreement and shall allow photocopies to be made of these documents utilizing Contractor's photocopier, for which County shall reimburse Contractor its customary charge for record copying services, if requested. Director shall provide Contractor with at least ten (10) working days prior written notice of any audit/compliance review.

County may conduct a statistical audit/compliance review of all claims paid by County during a specified period. The sample shall be determined in accordance with generally accepted auditing standards. An exit conference shall be held following the performance of any such audit/compliance review at which time the results shall be discussed with Contractor. Contractor shall be provided with a copy of any resultant written evaluation report(s).

Contractor shall have the opportunity to review County's findings for Contractor, and Contractor shall have thirty

(30) calendar days after receipt of County's audit/ compliance review results to provide documentation to the County representatives to resolve audit exceptions. If, at the end of the thirty (30) day period there remain audit exceptions which have not been resolved to the satisfaction of County's representatives, then the exception rate found in the audit or sample results shall be applied to the total County payments made to Contractor for all claims paid during the audit/compliance review period to determine Contractor's liability to County.

G. County Audit Settlements: If, at any time during the term of this Agreement or at any time within five (5) years after the expiration or earlier termination of this Agreement, authorized representatives of County conduct an audit of Contractor regarding the services provided to County hereunder and if such audit finds that County's dollar liability for such services is less than payments made by County to Contractor, then Contractor agrees that the difference shall be either: (1) repaid forthwith by Contractor to County by cash payment, or (2) at Director's option, deducted from any further amount due to Contractor from County. If such audit finds that County's dollar liability for services provided hereunder is more than payments made by County to Contractor, then the difference

shall be paid forthwith by County to Contractor by cash payment.

H. Failure to Comply: Failure of Contractor to comply with the requirements of this Paragraph shall constitute a material breach of this Agreement upon which County shall give Contractor a written "Notice of Material Breach". If such breach has not been cured within ten (10) business days following the giving of such Notice, then County may, at County's sole discretion, immediately terminate this Agreement pursuant to the provisions of Paragraph 1, TERM AND TERMINATION, in the body of this Agreement. County's failure to exercise this right of termination shall not constitute waiver of such right, and the same may be exercised at any subsequent time.

2. CONFIDENTIALITY: Contractor shall maintain the confidentiality of all records and information, including, but not limited to, billings, County records and patient records, in accordance with all applicable Federal, State, and local laws, ordinances, regulations, and directives relating to confidentiality. Contractor shall inform all its officer, employees, and agents, providing services hereunder of the confidentiality provisions of this Agreement. Contractor shall indemnify and hold harmless County, its officers, employees, and agents, from and against any and all loss, damages, liability,

and expense arising out of any disclosure of such records and information by Contractor, its officer, employees, and agents.

County shall indemnify and hold harmless Contractor, its officers, employees, and agents, from and against any and all loss, damages, liability, and expense arising out of any disclosure of such records and information by County, its officers, employees, or agents.

3. NONDISCRIMINATION IN SERVICES: Contractor shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex, age, sexual orientation, or physical or mental handicap, in accordance with requirements of Federal and State law. For the purpose of this Paragraph, discrimination in the provision of services may include, but is not limited to, the following: denying any person any service or benefit or the availability of a facility; providing any service or benefit to any person which is different, or is provided in a different manner, or at a different time, from that provided to others; subjecting any person to segregation or separate treatment in any matter related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; and treating any person differently from others in determining admission, enrollment quota, eligibility, membership, or any other requirement or

conditions which persons must meet in order to be provided any service or benefit. Contractor shall take affirmative action to ensure that intended beneficiaries of this Agreement are provided services without regard to race, color, religion, national origin, ancestry, sex, age, sexual orientation, or physical or mental handicap.

4. NONDISCRIMINATION IN EMPLOYMENT:

A. Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries or holding companies are and will be treated equally by it without regard to, and will not be discriminated against because of, race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, in compliance with all applicable anti-discrimination laws and regulations of the United States of America and the State of California as they now exist or may hereafter be amended.

B. Contractor shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment without regard to, and will not be discriminated against because of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, in compliance with all applicable anti-discrimination laws and regulations of the United States of America and the State of California as they now exist or may

hereafter be amended. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

C. Contractor shall deal with its subcontractors, bidders or vendors without regard to, and will not be discriminated against because of race, color, religion, ancestry, national origin, sex, age, or physical or mental handicap, as required by all applicable anti-discrimination laws and regulations of the United States of America and the State of California as they now exist or may hereafter be amended.

D. Contractor shall allow County representatives access to its employment records during regular business hours to verify compliance with these provisions when so requested by Director. Prior to any such inspection, Contractor may remove personal employee information from such records which is protected under the privacy laws of the State of California. To the extent any such information may come into the possession of County during such an inspection, County hereby promises to protect same from disclosure to third parties.

E. If County finds that any of the above provisions have been violated, the same shall constitute a material breach of Agreement upon which County may determine to cancel, terminate, or suspend this Agreement. While County reserves the right to determine independently that the anti-discrimination provisions of this Paragraph have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Opportunity Commission that Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by County that Contractor has violated the anti-discrimination provisions of this Paragraph.

F. The parties agree that in the event Contractor violates the anti-discrimination provisions of this Paragraph, County shall, at its option, be entitled to a sum of Five Hundred Dollars ($500) per violation or group of such violations investigated, pursuant to Civil Code section 1671 as liquidated damages in lieu of terminating or suspending this Agreement.

G. The parties understand and agree that the liquidated damages payable pursuant to Subparagraph 4.F. above are meant to compensate County for the costs of each investigation of violation(s) of the anti-discrimination provisions of this Paragraph, and therefore, the parties

agree that the basis for assessing liquidated damages for purposes of Sub-paragraph 4.F. above shall be the number of investigative reports submitted to Director, provided that no violation may be covered in more than one report. Director shall use his best efforts to insure that violations will be grouped together whenever possible for purposes of investigation.

5. LICENSES, PERMITS, REGISTRATIONS, AND CERTIFICATES: Contractor shall obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations, and certificates required by law for the operation of its medical practice and for the provision of services pursuant to this Agreement. Contractor shall ensure that all its officers, employees, and agents who perform services hereunder, obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations, and certificates required by law which are applicable to their performance of services hereunder. Such licenses, permits, registrations, and certificates shall be made available to Director upon request.

6. RULES AND REGULATIONS: During the time the Contractor, its officers, employees, or agents are at Medical Facility, Contractor and such persons shall be subject to the rules and regulations of Medical Facility. It is the responsibility of Contractor to acquaint itself and such persons who may provide

services hereunder with such rules and regulations. Contractor shall immediately and permanently withdraw any of its officers, employees, or agents from the provision of services hereunder upon receipt of written notice from Director that (a) such officer(s), employee(s), or agent(s) has (have) violated such rules and regulations, or (b) such officer's, employee's, or agent's actions, while on County premises, may harm County patients. Director shall provide Contractor with a written statement of the facts supporting any such violation or action.

7. STAFF PERFORMANCE WHILE UNDER THE INFLUENCE: Contractor shall use its best efforts to ensure that no employee or physician, including Contractor, will perform services hereunder while under the influence of any alcoholic beverage, medication, narcotic, or other substance that might impair her/his physical or mental performance.

8. CONTRACTOR PERFORMANCE DURING DISASTER OR CIVIL UNREST: Contractor recognizes that health care facilities maintained by County, including shelters and relief facilities operated by County during a disaster, provide care essential to the residents of the communities they serve and that these services are of particular importance at the time of a natural disaster or other similar event, or at the time of riot, insurrection, or civil unrest. Notwithstanding any other provision of this Agreement, Contractor shall continue to provide services at Medical Facility

and, if requested to do so by Director, shall also provide services at County-operated shelters and relief facilities, during any natural disaster or other similar event, riot, insurrection or civil unrest, so long as such performance remains physically possible.

Director shall provide Contractor with an explanation of the services and responsibilities required of Contractor in the event of a disaster or civil unrest.

9. UNLAWFUL SOLICITATION: Contractor shall inform all of its officers, employees, and agents providing services hereunder of the provisions of Article 9 of Chapter 4 of Division 3 (commencing with section 6150) of the California Business and Professions Code (i.e., State Bar Act provisions regarding unlawful solicitation as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to ensure that there is no violation of said provisions by its officers, employees, and agents. Contractor agrees that if a patient requests assistance in obtaining the services of any attorney, it will refer the patient to the attorney referral service of those bar associations within Los Angeles County that have such a service.

10. CONFLICT OF INTEREST: No County officer or employee whose position in County enables him/her to influence the award or the administration of this Agreement or any competing

agreement, and no spouse or economic dependent of such officer or employee, shall be employed in any capacity by Contractor herein, or have any other direct or indirect financial interest in this Agreement.

No officer or employee of Contractor who may financially benefit from the provision of services hereunder shall in any way participate in County's approval, or ongoing evaluation, of such services, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such services.

Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. Contractor warrants that it is not now aware of any facts which create a conflict of interest. If Contractor hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to Director. Full written disclosure shall include, without limitation, identification of all persons involved and complete description of all relevant circumstances.

11. COVENANT AGAINST CONTINGENT FEES:

A. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee,

excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.

B. For breach or violation of this warranty, County shall have the right to terminate this Agreement and, in its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, or brokerage or contingent fee.

12. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION: Contractor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of County. Any assignment or delegation which does not have such prior County consent shall be null and void.

13. SUBCONTRACTING:

A. For purposes of this Agreement, subcontracts shall be approved by Director or his/her authorized designee(s). Contractor's request to Director for approval of a subcontract shall include:

(1) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including a description of Contractor's efforts to obtain competitive bids.

(2) A description of the services to be provided under the subcontract.

(3) The proposed subcontract amount, together with Contractor's cost or price analysis thereof. In the event that the subcontracted services are to be provided to Contractor on either a gratuitous or "pro bono" or "volunteer" basis, Contractor shall state as such.

(4) A copy of the proposed subcontract. Any later modification of such subcontract shall take the form of a formally written subcontract amendment, which must be approved in writing by Director before such amendment is effective.

B. Subcontracts issued pursuant to this Paragraph shall be in writing and shall contain at least the intent of all of the Paragraphs of the body of the Agreement, including the ADDITIONAL PROVISIONS, and the requirements of the exhibit(s), including their attachments.

C. At least thirty (30) calendar days prior to the subcontract's proposed effective date, Contractor shall submit for review and approval to Director a copy of the proposed subcontract instrument. With Director's written approval of the subcontract instrument, the subcontract may proceed.

D. Subcontracts shall be made in the name of Contractor and shall not bind County. The making of subcontracts hereunder shall not relieve Contractor of any requirement under this Agreement, including, but not limited to, the duty to properly supervise and coordinate the work of subcontractors. Approval of the provisions of any subcontract by County shall not be construed to constitute a determination of the allowability of any cost under this Agreement. In no event shall approval of any subcontract by County be construed as affecting any increase to the amount contained in the MAXIMUM OBLIGATION Paragraph.

E. Failure by Contractor to comply with this Paragraph 35 shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Contractor resulting from said breach.

14. COMPLIANCE WITH APPLICABLE LAW:

A. Contractor shall comply with all Federal, State, and local laws, ordinances, regulations, and directives applicable to its performance hereunder. Further, all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference.

B. Contractor shall indemnify and hold harmless County, its officers, employees and agents from and against any and

all loss, damage, liability, or expense resulting from any violation on the part of Contractor, its officers, employees, or agents of such Federal, State, or local laws, ordinances, regulations, or directives.

15. AUTHORIZATION WARRANTY: Contractor hereby represents and warrants that the person executing this Agreement for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation set forth in this Agreement and that all requirements of Contractor have been fulfilled to provide such actual authority.

16. FAIR LABOR STANDARDS: Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act, and shall indemnify, defend, and hold harmless County, its officers, employees, and agents from any and all liability including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law including, but not limited to, the Federal Fair Labor Standards Act for services performed by Contractor's employees for which County may be found jointly or solely liable.

17. EMPLOYMENT ELIGIBILITY VERIFICATION: Contractor warrants that it fully complies with all Federal statutes and regulations regarding employment of aliens and others, and that all its employees performing services hereunder meet the

citizenship or alien status requirements contained in Federal statutes and regulations. Contractor shall obtain, from all covered employees performing services hereunder, all verification and other documentation of employment eligibility status required by Federal statues and regulations as they currently exist and as they may be hereafter amended. Contractor shall retain such documentation for all covered employees for the period prescribed by law. Contractor shall indemnify, defend, and hold harmless County, its officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County in connection with any alleged violation of Federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Agreement.

18. RESTRICTIONS ON LOBBYING: If any federal monies are to be used to pay for Contractor's services under this Agreement, Contractor shall comply with all certification and disclosure requirements prescribed by section 319, Public Law 101-121 (31 United States Code section 1352) and any implementing regulations, and shall ensure that each of its subcontractors receiving funds provided under this Agreement also fully comply with all such certification and disclosure requirements.

19. COUNTY LOBBYISTS: Each County lobbyist as defined in Los Angeles County Code section 2.160.010, retained by Contractor, shall fully comply with the County Lobbyist

Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of any County lobbyist retained by Contractor to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

20. MERGER PROVISION: The body of this Agreement, including all the exhibits and attachments thereto, fully express all understandings of the parties concerning all matters covered and shall constitute the total Agreement. No addition to, or alteration of, the terms of this Agreement whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid unless made in the form of a written amendment to this Agreement which is formally approved and executed by the parties.

21. SEVERABILITY: If any provision of this Agreement, including any provision in an exhibit, or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

22. TERMINATION FOR IMPROPER CONSIDERATION AND DEFAULT:

A. Termination for Improper Consideration: County may, by written notice to Contractor, immediately terminate the right of Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given

by Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment, or extension of the Agreement, or the making of any determinations with respect to Contractor's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

Contractor shall immediately report any attempt by a County officer, employee, or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

B. Termination for Default: County may, by written notice of default to Contractor, terminate this Agreement immediately in any one of the following circumstances:

(1) If, as determined in the sole judgment of County, Contractor fails to satisfactorily perform any services within the times specified in this Agreement or

any extension thereof as County may authorize in writing; or

(2) If, as determined in the sole judgment of County, Contractor fails to perform and/or comply with any of the other provisions of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances, does not cure such failure within a period of five (5) calendar days (or such longer period as County may authorize in writing) after receipt of notice from County specifying such failure.

In the event that County terminates this Agreement as provided hereinabove, County may procure, upon such terms and in such manner as County may seem appropriate, services similar to those so terminated, and Contractor shall be liable to County for any reasonable excess costs incurred by County, as determined by County, for such similar services. The rights and remedies of County provided in this Paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

23. COUNTY'S QUALITY ASSURANCE PLAN: Director will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing

Contractor's compliance with all contract terms and performance standards. Contractor deficiencies which Director determines are severe or continuing and that may place performance of this Agreement in jeopardy if not corrected will be reported to the County Board of Supervisors. The report will include improvement/corrective action measures taken by County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this Agreement or impose other penalties as specified in this Agreement.

24. CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM: Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through County contracts are in compliance with their court-ordered child, family, and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Agreement to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act [42 USC Section 653 (a)] and California Unemployment Insurance Code Section 1088.55,

and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department ("CSSD") Notices of Wage and Earnings Assignment for Child, Family, or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246 (b).

25. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM: Failure of Contractor to maintain compliance with the requirements set forth in the CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM Paragraph immediately above, shall constitute default under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure of Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which County may terminate this Agreement pursuant to the TERM AND TERMINATION Paragraph of this Agreement, and pursue debarment of Contractor pursuant to County Code Chapter 2.202.

26. CONTRACTOR'S ACKNOWLEDGMENT OF COUNTY'S COMMITMENT TO CHILD SUPPORT ENFORCEMENT: Contractor acknowledges that County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. Contractor understands that it is County's policy to encourage all County Contractors to voluntarily post County's "L.A.'s ("Los Angeles'")

Most Wanted: Delinquent Parents" poster in a prominent position at Contractor's place of business. County's CSSD will supply Contractor with the poster to be used.

27. NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT: Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

28. CONTRACTOR'S EXCLUSION FROM PARTICIPATING IN A FEDERALLY FUNDED PROGRAM: Contractor hereby warrants that neither it or any of its staff members is restricted or excluded from providing services under any health care program funded by the Federal government, directly or indirectly, in whole or in part, and that Contractor will notify Director within thirty (30) calendar days in writing of: (1) any event that would require Contractor or a staff member's mandatory exclusion from participation in a Federally funded health care program; and (2) any exclusionary action taken by any agency of the Federal government against Contractor or one or more of its employees, agents, or staff members barring it or the employee(s), agent(s), or member(s) from participating in a Federally funded health care program,

whether such bar is direct or indirect, or whether such bar is in whole or in part.

Contractor shall indemnify and hold County harmless against any and all loss or damage County may suffer arising from any Federal exclusion of Contractor or its staff members from such participation in a Federally funded health care program.

Failure by Contractor to meet the requirements of this Paragraph shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

29. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS: Contractor hereby acknowledges that the County is prohibited from contracting with and making sub-awards to parties that are suspended, debarred, ineligible, or excluded from securing federally funded contracts. By executing this Agreement, Contractor certifies that neither it nor any of its owners, officers, partners, directors, or principals is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Further, by executing this Agreement, Contractor certifies that, to its knowledge, none of its subcontractors, at any tier, or any owner, officer, partner, director, or other principal of any subcontractor is currently suspended, debarred, ineligible, or excluded from securing federally funded contracts. Contractor shall

immediately notify County in writing, during the term of this agreement, should it or any of its subcontractors or any principals of either be suspended, debarred, ineligible, or excluded from securing federally funded contracts. Failure of Contractor to comply with this provision shall constitute a material breach of this Agreement upon which the County may immediately terminate or suspend this Agreement.

30. CONTRACTOR'S WILLINGNESS TO CONSIDER COUNTY'S EMPLOYEES FOR EMPLOYMENT: Contractor agrees to receive referrals from County's Department of Human Resources of qualified permanent employees who are targeted for layoff or qualified former employees who have been laid off and are on a re-employment list during the life of this Agreement. Such referred permanent or former County employees shall be given first consideration of employment as Contractor vacancies occur after the implementation and throughout the term of this Agreement.

Notwithstanding any other provision of this Agreement, the parties do not in any way intend that any person shall acquire any rights as a third party beneficiary of this Agreement.

31. CONSIDERATION OF COUNTY'S DEPARTMENT OF PUBLIC SOCIAL SERVICES ("DPSS") GREATER AVENUES FOR INDEPENDENCE ("GAIN") PROGRAM OR GENERAL RELIEF OPPORTUNITY FOR WORK ("GROW") PARTICIPANTS FOR EMPLOYMENT: Should Contractor require additional or replacement personnel after the effective date of

this Agreement, Contractor shall give consideration for any such employment openings to participants in County's DPSS GAIN or GROW program(s), who meet Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that Contractor will interview qualified candidates. County will refer GAIN/GROW participants by job category to Contractor. In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

32. SERVICE DELIVERY SITE - MAINTENANCE STANDARDS: Contractor shall assure that the locations (i.e., facilities) where services are provided under provisions of this Agreement are operated at all times in accordance with County community standards with regard to property maintenance and repair, graffiti abatement, refuse removal, fire safety, landscaping, and in full compliance with all applicable local laws, ordinances, and regulations relating to the property. County's periodic monitoring visits to Contractor's facility(ies) shall include a review of compliance with the provisions of this Paragraph.

33. CONTRACTOR RESPONSIBILITY AND DEBARMENT:

A. A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily

perform the contract. It is County's policy to conduct business only with responsible contractors.

B. Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if County acquires information concerning the performance of Contractor on this or other contracts which indicates that Contractor is not responsible, County may, in addition to other remedies provided under this Agreement, debar Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five (5) years but may exceed five (5) years or be permanent if warranted by the circumstances, and terminate any or all existing contracts Contractor may have with County.

C. County may debar Contractor if the Board of Supervisors finds, in its discretion, that Contractor has done any of the following: (1) violated a term of a contract with County or a nonprofit corporation created by County; (2) committed any act or omission which negatively reflects on Contractor's quality, fitness, or capacity to perform a contract with County, any other public entity, or a nonprofit corporation created by County, or engage in a pattern or practice which negatively reflects on same;

(3) committed an act or offense which indicates a lack of business integrity or business honesty; or (4) made or submitted a false claim against County or any other public entity.

D. If there is evidence that Contractor may be subject to debarment, the Department will notify Contractor in writing of the evidence which is the basis for the proposed debarment and will advise Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

E. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. Contractor and/or Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether Contractor should be debarred, and, if so, the appropriate length of time of the debarment. Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

F. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of

Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contract Hearing Board.

G. If Contractor has been debarred for a period longer than five (5) years, Contractor may, after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.

H. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate

request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

I. These terms shall also apply to any subcontractors of Contractor.

34. COMPLIANCE WITH HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996: The parties acknowledge the existence of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"). Contractor understands and agrees that, as a provider of medical treatment services, it is a "covered entity" under HIPAA and, as such, has obligations with respect to the confidentiality,

privacy and security of patients' medical information, and must take certain steps to preserve the confidentiality of this information, both internally and externally, including the training of its staff and the establishment of proper procedures for the release of such information, and the use of appropriate consents and authorizations specified under HIPAA.

The parties acknowledge their separate and independent obligations with respect to HIPAA, and that such obligations relate to transactions and code sets, privacy, and security. Contractor understands and agrees that it is separately and independently responsible for compliance with HIPAA in all these areas and that County has not undertaken any responsibility for compliance on Contractor's behalf. Contractor has not relied, and will not in any way rely, on County for legal advice or other representations with respect to Contractor's obligations under HIPAA, but will independently seek its own counsel and take the necessary measures to comply with the law and its implementing regulations.

Contractor and County understand and agree that each is independently responsible for HIPAA compliance and agree to take all necessary and reasonable actions to comply with the requirements of the HIPAA law and implementing regulations related to transactions and code sets, privacy, and security.

Each party further agrees to indemnify and hold harmless the other party (including their officers, employees, and agents), for its failure to comply with HIPAA.

35. SAFELY SURRENDERED BABY LAW: Contractor shall notify and provide to each of its officers, employees, and agents, and shall require that each of Contractor's subcontractors providing services under this Agreement also notify and provide to each of its officers, employees, and agents, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. County's fact sheet is available on the Internet at www.babysafela.org for printing and review purposes. Further, Contractor acknowledges that County places a high priority on the implementation of the Safely Surrendered Baby Law. Contractor understands that it is County's policy to encourage Contractor and all of its sub-contractors, providing services under this Agreement, if any, to voluntarily post County's "Safely Surrendered Baby Law" poster in a prominent position at their place of business. County's Department of Children and Family Services will supply Contractor with the poster to be used.

36. USE OF RECYCLED-CONTENT PAPER: Consistent with County's Board of Supervisors policy to reduce the amount of solid waste deposited at County landfills, Contractor agrees to use recycled-content bond paper and paper products to the maximum extent

possible in connection with services to be performed by Contractor under this Agreement.

pps:08/05/05
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