



Contract Number

20-173

SAP Number

4400013574

## Department of Public Health

|                                    |                                                                                                |
|------------------------------------|------------------------------------------------------------------------------------------------|
| Department Contract Representative | Lisa Ordaz, HS Contracts                                                                       |
| Telephone Number                   | (909) 388-0222                                                                                 |
| Contractor                         | Faculty Physicians and Surgeons of<br>LLUSM dba Loma Linda University<br>Faculty Medical Group |
| Contractor Representative          | Ricardo Peverini, MD                                                                           |
| Telephone Number                   | (909) 588-5582                                                                                 |
| Contract Term                      | July 1, 2020 – June 30, 2023                                                                   |
| Original Contract Amount           | \$2,698,920                                                                                    |
| Amendment Amount                   | \$0                                                                                            |
| Total Contract Amount              | \$2,698,920                                                                                    |
| Cost Center                        | 9300051000                                                                                     |

### IT IS HEREBY AGREED AS FOLLOWS:

**WHEREAS**, The County of San Bernardino, Department of Public Health hereafter referred to as "County," desires Pediatric Physician Services; and

**WHEREAS**, County has been allocated funds by Fee-for-Services Medi-Cal, Managed Care Medi-Cal, private insurance, sliding fee scale, and Realignment Funds to provide such services; and

**WHEREAS**, County finds Faculty Physicians and Surgeons of LLUSM dba Loma Linda University Faculty Medical Group (LLUFMG), hereafter referred to as "Contractor," qualified to provide Pediatric Physician Services; and

**WHEREAS**, County desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below;

**NOW THEREFORE**, County and Contractor mutually agree to the following terms and conditions:

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## I. DEFINITIONS

- A. Administrative Services – For purposes of this Contract, this is defined as non-patient hours, time spent for Contractors to participate in meetings, peer reviews, trainings, development of policies and procedures, and outcomes.
- B. Board Certified Physician – A licensed physician who has been granted certification in a specialty or subspecialty by the American Board of Medical Specialties (ABMS). Board certification demonstrates a physician's exceptional expertise in a particular specialty and/or subspecialty of medical practice. Often considered the "gold standard" for treatment.
- C. Board Eligible Physician – A licensed physician who has completed the requirements of board certification in a specialty or subspecialty as described by the ABMS.
- D. Controlled Substance Utilization Review and Evaluation System (C.U.R.E.S) – The State's database which contains over 100 million entries of controlled substance drugs that were dispensed in California.
- E. Department of Public Health (DPH) – The San Bernardino County department that provides health and educational services to the residents of San Bernardino County and operates the Federally Qualified Health Centers.
- F. Electronic Health Record (EHR) – An electronic health record, or electronic medical record, is the systematized collection of patient electronically-stored health information. Records are shared through network-connected, enterprise-wide information systems or other information networks and exchanges.
- G. EHR Documentation – Electronic documentation is the communication tool used by and between providers. Documenting a patient's medical record with all relevant and important facts, and having that information readily available, allows providers to furnish correct and appropriate services that can improve quality safety, and efficiency.
- H. Federally Qualified Health Centers (FQHC) – Community based health care providers that receive funds from the Health Resources and Services Administration (HRSA) Health Center Program to provide primary care services in underserved areas. FQHCs must meet a stringent set of requirements, including providing care on a sliding fee scale based on ability to pay, and operating under a governing board that includes patients.
- I. Health Resources and Services Administration (HRSA) – Agency of the U.S. Department of Health and Human Services. It is the primary federal agency for improving access to health care services for people who are uninsured, isolated, or medically vulnerable.
- J. Human Services (HS) – The County of San Bernardino Human Services, a system of integrated services, where the programs and resources of nine (9) County departments come together to provide a rich, more complete array of services to the citizens of San Bernardino County under one coordinated effort.
- K. Locum Tenens – Providers used to fill in for a part-time absence of another provider (e.g., on a day off or to cover for a vacation, sick leave, or the Family and Medical Leave Act (FMLA).
- L. Medical Scribe – A personal assistant to the physician, performing documentation in the EHR, gathering information for the patient's visit, and partnering with the physician to deliver efficient patient care.
- M. Pediatrician – A medical doctor who specializes in children and their diseases. They are trained to diagnose and treat childhood illnesses, from minor health problems to serious diseases.
- N. Pediatric Services – The preventive and primary health care and treatment of children, under the age of eighteen.
- O. Virence Practice Solutions – A fully integrated Electronic Medical Record (EMR) and Practice Management (PM) system designed to help DPH enhance clinical and financial productivity of its ambulatory practice and will be used at the FQHCs.

- P. Visit – A visit is a documented, face-to-face contact, between a patient and a licensed or credentialed provider who exercises independent, professional judgment in providing services. It includes a scheduled or walk-in appointment (regardless of length of time) to obtain pediatric services.

## II. **CONTRACTOR SERVICE RESPONSIBILITIES**

Contractor shall:

- A. Provide board-certified physicians (Pediatricians) to meet the need of providing pediatric services at DPH designated sites. At least one Pediatrician will work a minimum of twenty (20) hours per week at each health center, which includes a minimum of eighteen (18) patient contact hours and two (2) non-patient contact hours. Pediatricians providing services must:
1. Be licensed in the State of California and in good standing. They must be qualified for practicing the medical specialty of Pediatrics and/or its subspecialties.
  2. Have a minimum of one (1) year of experience providing pediatric services.
  3. Obtain and maintain the proper credentialing and background checks required for the provision of services, as required by FQHC designated Health Centers. This requirement must be met, verified, and approved by DPH prior to providing services.
  4. Attend mandatory Department of Public Health and Clinic Operations Section New Employee Orientation, which includes EHR training, within two (2) weeks of coming on-board. No providers can shadow or engage in any prerequisite patient care activities without completing this orientation and training.
  5. Participate in all managed care programs sponsored by or approved by DPH.
  6. Not compete with DPH by re-directing patients to private practice ventures.
  7. Attend EHR training to become familiar with DPH's Electronic Health Record System.
- B. Provide comprehensive pediatric services during regular business hours of Monday through Thursday, 8:30 a.m. to 5:30 p.m., and on Friday, 8:00 a.m. to 5:00 p.m., each day at each of the of the DPH locations below:
1. Adelanto Federally Qualified Health Center  
(11336 Bartlett Avenue, Suite 11, Adelanto, CA 92301)
  2. Hesperia Federally Qualified Health Center  
(16453 Bear Valley Road, Hesperia CA 92345)
  3. Ontario Federally Qualified Health Center  
(150 E. Holt Blvd., Ontario, CA 91764)
  4. San Bernardino Federally Qualified Health Center  
(606 E. Mill Street, San Bernardino, CA 92415)
- The days and times of providing services are subject to change based on patient need and volume. Schedule to be coordinated with DPH Clinic Operations Section.
- C. Provide administrative services under the direction of the Public Health Chief Medical Officer (CMO) or designee as follows:
1. Engage in appropriate service-level practice to ensure regulatory requirements, in accordance with local, state and federal laws.
  2. Address pediatric clinical practice issues and be available for consultation with health center staff and DPH Clinic Operations Section.
  3. Provide and adhere to current evidence-based clinical guidelines, standards of care, standard of practice in the provision of health center services.

4. Assist in developing and implementing policies, procedures, and practice guidelines for pediatric providers.
  5. Work with DPH Clinic Operations Section to develop and implement long-range strategic plans.
  6. Participate in continuous quality improvement/quality assurance, peer reviews, and chart audit activities based on identified HRSA performance measures, as part of an assessment of clinical care.
  7. Work with clinic staff on compliance with provider productivity standards. The baseline is eighteen (18) to twenty (20) patients per 8-hour day per provider. Provider productivity may fluctuate (increase or decrease) based on patient volume. It is the expectation that Contractor will meet the increase in demand as necessary.
  8. Attend monthly provider meetings to address patient service delivery, education, training, compliance, and the identification of other supportive services needed to improve patient care and service delivery.
- D. Follow and adhere to a monthly provider schedule for each DPH health center. A scheduling calendar, showing coverages, must be provided thirty (30) days prior to the month of service. Any changes and updates must be coordinated with DPH Clinic Operations Section. Any/all notifications regarding schedule changes can be in a verbal format, but must be followed up with written notification confirming the request for change.
- E. Assign a single point of contact to deal with any contractual issues that may arise.
- F. Work with associated local hospitals for coordination of care of health center patients and activities. Currently, DPH has entered into agreements with five (5) local hospitals (Arrowhead Regional Medical Center, Desert Valley Hospital, St. Mary's Medical Center, Pomona Valley Hospital Medical Center, and San Antonio Regional Hospital). Each institution agrees to the terms and conditions of their Memorandum of Understanding (MOU) to collaborate and cooperate with the respective FQHC and FQHC patients who receive treatment at the respective hospital. Additional MOU's may be added. Patients may also be referred to Loma Linda University Children's Hospital for tertiary care medical needs and other needs, as appropriate.
- G. In an effort to provide whole person care to FQHC patients, Contractor shall also ensure coordination of health, behavioral health, dental and social services, as applicable, in a patient-centered manner with the goal of improved beneficiary health and well-being.
- H. Provide additional physicians to meet the demand of the FQHCs in consultation and joint agreement with DPH or provide replacement coverage as needed. Staffing and scheduling will be determined by DPH. It is the expectation that the Contractor will maintain a consistent team. If Contractor deems it necessary to include medical residents in the scheduling process, the resident must have a preceptor present. The preceptor can be the contracted physician. Contractor will be responsible for providing additional preceptors at no additional cost to the County, if an additional preceptor is required to meet residency requirements. Contractor must request written approval to engage in this process prior to initiation. The contracted physician is expected to meet their target productivity goals, with or without a resident present.
- I. Ensure that all contractor physicians and mid-level practitioners comply with the policies and procedures applicable to the FQHC locations, and all relevant Federal and State laws and regulations, and in addition to all County of San Bernardino policies, procedures, and standard practices.
- J. Participate in managed care programs sponsored by or approved by DPH.
- K. Maintain records of medical care using the Electronic Health Record (EHR) and completion of documentation (e.g. off work orders, disability forms, etc.) as required by the Public Health Director or designee. Contractor may utilize a medical scribe but Contractor shall be responsible for the associated cost.

- L. Use Virence Practice Solution currently (DPH's EHR) to manage care for FQHC patients by providing accurate, up-to-date, and complete information at the point of care.
- M. Meet quarterly with DPH staff to discuss Contract compliance.
- N. Refer DPH patients in need of follow-up specialty care beyond the Health Center scope to other community providers.
- O. Provide coverage for vacation, sick days, and during other scheduled absences. This includes providing timely (within 72 hours) notice of absence when providers will be unavailable. Provide coverage, as able, for unscheduled absences when less than 72 hours notice is given to Contractor by physician. Maintain contracted approved staffing plan and schedule throughout contract. (All replacement staff to be the same level of discipline and experience). Failure to provide such coverage will result in a reduction in payment to the Contractor equivalent to the number of hours the provider is absent and/or not providing services.
- P. Agree to replace any assigned Contractor staff, at County's request.
- Q. Replace any associated pediatrician if his or her professional license to practice medicine in the State is denied, suspended, restricted, terminated, revoked or relinquished for any reason, whether voluntarily or involuntarily.
- R. Understand that all patients fall under the care of DPH and cannot be transferred to the assigned Physician's private practice or corporation. Contractor must ensure that patients, either directly or indirectly, are not coerced into transferring.
- S. Assist DPH management with preparation for and conduct of, any inspections, investigations, and onsite surveys of the FQHCs conducted by governmental agencies or accrediting organizations.
- T. Appear in any legal proceedings on behalf of the County, where the need for such appearances arises out of the Contractor's work with the County.
- U. Agree that no part of the County premises shall be used as an office for private practice or delivery of care for non-DPH patients.
- V. Understand that any and all individuals providing services under the Contract, including but not limited to physicians are employees of Contractor and will not be considered for any purpose employees of the County.
- W. Not bring personal electronic tools to document or dictate proprietary FQHC patient information in compliance with HIPAA.
- X. Adhere to applicable County policies and procedures, and complete any and all required trainings, including but not limited to Health Insurance Portability and Accountability Act (HIPAA) training, prior to commencing work at a DPH location.
- Y. Agree that no local-tenums nor sign on bonuses are allowed. DPH is unable to pay a recruitment fee to Contractor to augment salaries or recruit physicians.
- Z. Understand that DPH is unable to pay start-up costs or advance payments related to the initiation of services.
- AA. Follow Cloud Services Requirements (Attachment C), if applicable.

### **III. CONTRACTOR GENERAL RESPONSIBILITIES**

- A. In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino. Contractor agrees to comply with the applicable federal suspension and debarment regulations, including, but not limited to 7 Code of Federal Regulations (CFR) Part 3017, 45 CFR 76, 40 CFR 32, or 34 CFR 85. By signing this Contract, Contractor certifies that:
  - 1. Neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;

2. Have not within a three-year period preceding this Contract been convicted of or had a judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; or a violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction or records, making false statements, or receiving stolen property;
  3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph (A)(2) herein; and
  4. Have not within a three-year period preceding this Contract had one (1) or more public transactions (Federal, State or local) terminated for cause or default.
- B. Contractor shall not be identified as suspended or debarred on the federal System for Award Management's (SAM) excluded list (<https://www.sam.gov>). If at any time during the term of this Contract, the County determines Contractor is identified as either suspended or debarred on the SAM, Contractor shall be considered in material breach of this Contract, and the County may proceed under the Correction of Performance Deficiencies at Section VII of this Contract, including immediate termination of this Contract. If Contractor becomes aware, at any point during the term of this Contract, that it is identified as suspended or debarred on the SAM excluded list, Contractor must immediately inform County. Such inclusion will be considered a material breach of the Contract and be sufficient grounds for immediate termination.
- C. Without the prior written consent of the Assistant Executive Officer for Human Services, this Contract is not assignable by Contractor either in whole or in part.
- D. This is not an exclusive Contract. The County reserves the right to enter into a contract with other Contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive compensation, under the terms of this Contract, except as listed under the Contractor Service Responsibilities under Section II. A and the Fiscal Provisions under Section V. B of this Contract.
- E. Contractor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five (5) years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County Administrative Official" is defined as a member of the Board of Supervisors or such member's staff, Chief Executive Officer of the County or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.
- F. If during the course of the administration of this Contract, the County determines that the Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.
- G. Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.
- H. Contractor agrees not to enter into any subcontracts for work contemplated under this Contract without first obtaining written approval from the Director of DPH through the HS Contracts Unit. The County may withhold such consent in its sole discretion.

At County's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the

County, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County for its subcontractors and shall indemnify County for the actions or omissions of its subcontractors under the terms and conditions specified in Attachment B. All approved subcontractors shall be subject to the provision of this Contract applicable to Contractor Personnel, including removal pursuant to Paragraphs T and U of this Section III.

For any subcontractor, Contractor shall:

1. Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions;
2. Ensure that the subcontractor follows County's reporting formats and procedures as specified by County; and
3. Include in the subcontractor's subcontract substantially similar terms as are provided in this Contract.

- I. Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. Said records shall be kept and maintained within the County of San Bernardino. County shall have the right upon reasonable notice and at reasonable hours of business to examine and inspect such records and books.

All records relating to the Contractor's personnel, contractors, subcontractors, service/scope of work and expenses pertaining to this Contract shall be kept in generally acceptable accounting format. Records should include, but are not limited to, monthly summary sheets, sign-in sheets, and other primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must also comply with the appropriate Code of Federal Regulations (CFR) that state the administrative requirements, cost principles and other standards for accountancy. Please refer to [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl) for further information.

All records shall be complete and current and comply with all contract requirements. Failure to maintain acceptable records per the preceding requirements shall be considered grounds for withholding of payments for billings submitted and for termination of the Contract.

- J. Contractor shall notify County in writing of any change in mailing address and/or physical location within ten (10) days of the change, and shall immediately notify County of changes in telephone or fax numbers.
- K. Contractor shall notify County of any continuing vacancies and any positions that become vacant during the term of this Contract that will result in reduction of services to be provided under this Contract. Upon notice of vacancies, the Contractor shall apprise County of the steps being taken to provide the services and to fill the position as expeditiously as possible. Vacancies and associated problems shall be reported to County on each periodically required report for the duration of said vacancies and/or problems.
- L. Contractor shall designate an individual to serve as the primary point of contact for the Contract. Contractor shall notify the County when the primary contact will be unavailable/out of the office for one (1) or more workdays. Contractor or designee must respond to County inquiries within two (2) County business days. Contractor shall not change the primary contact without written notice to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.
- M. Contractor shall repair, or cause to be repaired, at its own cost, all damage to County property, vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or employees or agents of the Contractor. Contractor shall also be responsible for damage caused by his/her staff to personal property of County employees. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs after fifteen (15) days notice, the County may make any necessary repairs. For such repairs, the Contractor shall repay all costs incurred by the County, by cash payment upon demand or County may deduct such costs from any amounts due to the Contractor from the County, as determined at County's sole discretion.

- N. Contractor and the County provides a system, approved by the County, through which recipients of service shall have the opportunity to express and have considered their views and complaints regarding the delivery of services. The Complaint and Grievance Procedure must be in writing and posted in clear view of all recipients.
- O. Contractor will ensure that staff are knowledgeable on the San Bernardino County Human Services Complaint and Grievance Procedure (Attachment A) and ensure that any complaints by recipients are referred to the County in accordance with the procedure.
- P. Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, regulations have been promulgated governing the privacy of individually identifiable health information. Contractor acknowledges that it is a covered entity and subject to the requirements of HIPAA and HITECH, and their implementing regulations. Contractor agrees to fully comply with the terms of HIPAA and HITECH, and regulations promulgated thereunder, and to ensure any Subcontractors utilized to fulfill Services pursuant to this Contract comply with said provisions. Contractor further agrees to comply with the requirements of all other applicable federal and state laws that pertain to the protection of health information.
- Q. Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to this Contract, except for statistical information not identifying any participant. The Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.
- R. Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialized and includes, but is not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.
- S. Contractor shall ensure that all known or suspected instances of child abuse or neglect are reported to the appropriate law enforcement agency or to the appropriate Child Protective Services agency. This responsibility shall include:
  - 1. Assurance that all employees, agents, consultants or volunteers who perform services under this Contract and are mandated by Penal Code Sections 11164 et seq. to report child abuse or neglect, sign a statement, upon the commencement of their employment, acknowledging their reporting requirements and their compliance with them.
  - 2. Development and implementation of procedures for employees, agents, consultants, or volunteers who are not subject to the mandatory reporting laws for child abuse to report any observed or suspected incidents of child abuse to a mandated reporting party, within the program, who will ensure that the incident is reported to the appropriate agency.
  - 3. Provision for arrangement of training in child abuse reporting laws (Penal Code section 11164 et seq.) for all employees, agents, consultants, and volunteers, or verification that such persons have received training in the law within thirty (30) days of employment/volunteer activity.

- T. Contractor shall obtain from the Department of Justice (DOJ) records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment or volunteers for all positions in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, as provided for in Penal Code section 11105.3 prior to providing any services. This includes licensed personnel who are not able to provide documentation of prior DOJ clearance. A copy of a license from the State of California, which requires a DOJ clearance, is sufficient proof. The County must be immediately notified of any records showing a conviction. The County may instruct Contractor to take action to deny/terminate employment or terminate internship and/or volunteer services where the records show the person is unsuitable for employment, internship, or volunteer services.
- U. Contractor shall notify the County of any staff member, paid intern or volunteer who is knowingly or negligently employed who has been convicted of any crime of violence or of any sexual crime. Contractor shall investigate all incidents where an applicant, employee, intern or volunteer has been arrested and/or convicted for any crime listed in Penal Code Section 11105.3 and shall notify the County. In the County's discretion, the County may instruct Contractor to take action to either deny/terminate employment or terminate internship and/or volunteer services where the investigation shows that the underlying conduct renders the person unsuitable for employment, internship, or volunteer services.
- Contractor shall immediately notify the County concerning the arrest and/or conviction, for other than minor traffic offenses, of any paid employee, agent, consultant, intern, or volunteer staff, when such information becomes known to Contractor.
- V. In recognition of individual rights to work in a safe, healthful and productive workplace, as a material condition of this Contract, Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:
1. Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
  2. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
  3. Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.
- Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.
- The County may terminate for default or breach of this Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.
- W. Contractor shall make every reasonable effort to prevent employees, consultants or members of its governing bodies from using their positions for purposes that are or give the appearance of being motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties. In the event County determines a conflict of interest exists, any increase in costs associated with the conflict of interest may be disallowed by County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, agents, or employees have family, business or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicants and such persons have successfully competed for employment with other applicants on a merit basis.

- X. Contractor shall adhere to the County's Travel Management Policy (08-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the County. In addition, Contractor is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.
- Y. Contractor agrees to and shall comply with the indemnification and insurance requirements as stipulated in Attachment B.
- Z. Contractor shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Contract and shall procure all licenses and pay all fees and other charges required thereby. Contractor shall maintain all required licenses during the term of this Contract. Failure to comply with the provisions of this section may result in immediate termination of this Contract.
- AA. Contractor shall comply with all applicable local health and safety clearances, including fire clearances, for each site where services are provided under the terms of this Contract.
- BB. Contractor agrees to and shall comply with the County's Equal Employment Opportunity Program, Employment Discrimination, and Civil Rights Compliance requirements:
1. Equal Employment Opportunity Program – The Contractor agrees to comply with the provisions of the Equal Employment Opportunity Program of the County of San Bernardino and all rules and regulations adopted pursuant thereto: Executive Orders 11246, as amended by Executive Order 11375, 11625, 12138, 12432, 12250; Title VII of the Civil Rights Act of 1964; Division 21 of the California Department of Social Services Manual of Policies and Procedures; California Welfare and Institutions Code section 10000), the California Fair Employment and Housing Act; and other applicable federal, state, and county laws, regulations and policies relating to equal employment or social services to welfare recipients, including laws and regulations hereafter enacted.
  2. Employment Discrimination – During the term of the Contract, Contractor shall not unlawfully discriminate against any employee or applicant for employment or service recipient because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.
  3. Civil Rights Compliance – The Contractor shall develop and maintain internal policies and procedures to assure compliance with each factor outlined by state regulation. These policies must be developed into a Civil Rights Plan, which is to be on file with the County Human Services Contracts Unit within thirty (30) days of awarding of the Contract. The Plan must address prohibition of discriminatory practices, accessibility, language services, staff development and training, dissemination of information, complaints of discrimination, compliance review, and duties of the Civil Rights Liaison. Upon request, the County shall supply a sample of the Plan format. The Contractor shall be monitored by the County for compliance with provisions of its Civil Rights Plan. Contractor is required to maintain and provide a current Civil Rights Plan for the duration of the Contract and submit the Assurance of Compliance form (Attachment X) annually. Additionally, the Contractor shall submit to County an Assurance of Compliance with the California Department of Social Services Nondiscrimination in State and Federally Assisted Programs Statement annually.
- CC. Contractor agrees to comply with all applicable provisions of the Americans with Disabilities Act (ADA).
- DD. Contractor shall observe the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan (California Code of Regulations title 20, section 1401 et seq.).

- EE. If the amount available to Contractor under this Contract, as specified in Section V, Paragraph A, exceeds \$100,000, Contractor agrees to comply with the Clean Air Act (42 U.S.C. Section 7606), section 508 of the Clean Water Act (33 U.S.C. section 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 C.F.R. section 1.1 et seq.).
- FF. In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.
- GG. Contractor understands and agrees that any and all legal fees or costs associated with lawsuits concerning this Contract against the County shall be the Contractor's sole expense and shall not be charged as a cost under this Contract. In the event of any Contract dispute hereunder, each Party to this Contract shall bear its own attorney's fees and costs regardless of who prevails in the outcome of the dispute.
- HH. Contractor agrees that any news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County shall not be made or used without prior written approval of the DPH Director or their designee, and shall include County approved branding.
- II. IRAN CONTRACTING ACT 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Contractor certifies that at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 (<https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/List-of-Ineligible-Businesses#@ViewBag.JumpTo>) as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.
- Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205. Contractor agrees that signing the Contract shall constitute signature of this Certification.
- JJ. Contractor shall comply with the Environmental Tobacco Smoke/Pro-Children Act of 1994 (20 U.S.C 6081 et seq.).

#### **IV. COUNTY RESPONSIBILITIES**

County shall:

- A. Refer DPH patients that need obstetric services to Contractor at designated FQHC sites.
- B. Work with Contractor to develop a monthly schedule for each health center based upon actual patient volume and need.
- C. Assign a contact to handle clinical issues that may arise in the performance of the Contract.
- D. Assign a liaison to work with Contractor to provide consultation and technical assistance in carrying out the terms of the Contract. This includes have a quarterly meeting with the Contractor.
- E. Compensate the Contractor at the rates specified in Section V of the Contract.
- F. County shall be responsible for damage caused by his/her staff to personal property of Contractor employees. Such repairs shall be made immediately after County becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the County fails to make timely repairs after fifteen (15) days notice, the Contractor may make any necessary repairs. For such repairs, the County shall repay all costs incurred by the Contractor, by cash payment upon demand.

## **V. FISCAL PROVISIONS**

- A. The maximum amount of payment under this Contract shall not exceed \$2,698,920 (\$899,640 per year), of which a portion may be federally funded, and shall be subject to availability of funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.
- B. Payment for services shall be at the following rates:

| <b>DPH Clinic or Designated Site</b>             | <b>Hourly Rate for Pediatric Physician Services</b> |
|--------------------------------------------------|-----------------------------------------------------|
| Adelanto Federally Qualified Health Center       | \$191.25                                            |
| Hesperia Federally Qualified Health Center       | \$191.25                                            |
| Ontario Federally Qualified Health Center        | \$255                                               |
| San Bernardino Federally Qualified Health Center | \$255                                               |

In the event that Contractor fails to comply with the requirements of the Contract and does not provide coverages as stipulated, a reduction in payment equivalent to the number of hours the physician is absent and/or not providing services will be applied to the invoice.

- C. Contractor shall provide an invoice once a month to the County no later than the tenth day of the month following the month of service. The invoice shall, at a minimum, contain the following information: Contract number, service date(s) and services rendered, including physician hours of work. Invoices shall be submitted to:

San Bernardino County Department of Public Health  
Attn: Clinic Operations, Fiscal Assistant  
172 W. Third Street  
San Bernardino, CA 92415

- D. Contractor shall ensure that physicians sign and record their time spent in accordance with the Time Record Forms to be provided by DPH. Incomplete records shall be returned for completion.
- E. Contractor shall comply with all applicable laws, including those of any federal or state health care program, customary practice and other third party payor programs (such as Medi-Care and Medi-Cal) in connection with billing and coding for services provided pursuant to this Contract. Contractor shall adopt and maintain billing and coding compliance policies and procedures to ensure compliance in this area. Contractor understands that payment may be withheld until patient charts are signed off and completed in order for DPH to claim correctly.
- F. Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.
- G. Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.
- H. Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall

not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.

- I. County is not liable for the payment of any taxes, other than applicable sales or use tax, resulting from this Contract however designated, levied or imposed, unless County would otherwise be liable for the payment of such taxes in the course of its normal business operations.

## **VI. RIGHT TO MONITOR AND AUDIT**

- A. County shall have the absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract.
- B. County or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Auditor General, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract. Full cooperation shall be given by Contractor in any auditing or monitoring conducted. Contractor shall repay to the County within thirty (30) days of receipt of audit findings any reimbursements made by County to Contractor that are determined by subsequent audit to be unallowable pursuant to the terms of this Contract or by law.
- C. Contractor shall cooperate with County in the implementation, monitoring and evaluation of this Contract and comply with any and all reporting requirements established by this Contract.
- D. All records pertaining to service delivery and all fiscal, statistical and management books and records shall be available for examination and audit by county, federal and state representatives for a period of three (3) years after final payment under the Contract or until all pending county, state, and federal audits are completed, whichever is later. Only records of the Contractor which pertain to the services under this Contract may be subject to review or audit. Technical program data shall be retained locally and made available upon the County's reasonable advance written notice or turned over to County. If said records are not made available at the scheduled monitoring visit, Contractor may, at County's option, be required to reimburse County for expenses incurred due to required rescheduling of monitoring visit(s). Such reimbursement will not exceed \$50 per hour (including travel time) and may be deducted from the following month's claim for reimbursement.
- E. Contractor shall provide all reasonable facilities and assistance for the safety and convenience of County's representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work of the Contractor.
- F. Upon County request, Contractor shall hire a licensed Certified Public Accountant, approved by the County, who shall prepare and file with County, within sixty (60) days after the termination of the Contract, a certified fiscal audit of related expenditures during the term of the Contract and a program compliance audit.
- G. Pursuant to Code of Federal Regulations (CFR) – Title 2 CFR 200.501, Contractors expending \$750,000 or more in federal funds within the Contractor's fiscal year must have a single audit or program-specific audit performed. A copy of the audit performed in accordance with Code of Federal Regulations (CFR) – Title 2 CFR 200.501 shall be submitted to the County within thirty (30) days of completion, but no later than nine (9) months following the end of the Contractor's fiscal year. Please refer to [http://www.ecfr.gov/cgi-bin/text-idx?node=se2.1.200\\_1501&rgn=dv8](http://www.ecfr.gov/cgi-bin/text-idx?node=se2.1.200_1501&rgn=dv8) for further information.
- H. The following closely related programs identified by the Catalog of Federal Domestic Assistance (CFDA) number are to be considered as an "Other cluster" for purposes of determining major programs or whether a program specific audit may be elected. The Contractor shall communicate this information to the independent auditor conducting the organization's single audit.

US Department of Health and Human Services:  
93.224 Consolidated Health Centers

- I. County is required to identify the Contractor Data Universal Numbering System (DUNS) numbers and Federal Award Identification Number (FAIN) in all County contracts that include Federal funds or pass through of Federal funds. This information is required in order for the County to remain in compliance with 2CFR Section 200.331, and remain eligible to receive Federal funding. The Contractor shall provide the Contractor name as registered in DUNS, as well as the DUNS number to be included in this Contract. Related FAIN will be included in this Contract by the County.

|                                       |                       |
|---------------------------------------|-----------------------|
| Contractor Name as registered in DUNS | Loma Linda University |
| DUNS                                  | 084541270             |
| FAIN                                  | Not Applicable        |

**VII. CORRECTION OF PERFORMANCE DEFICIENCIES**

- A. In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under this Contract, Contractor shall notify the County within one (1) working day, in writing and by telephone.
- B. Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.
- C. In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract.
1. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at sole discretion of County; and/or
  2. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
  3. Withhold funds pending duration of the breach; and/or
  4. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "2" of this paragraph; and/or
  5. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.
- D. Unless a remedy is specifically designated as exclusive, no remedy conferred by any of the specific provision of the Contract is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one (1) or more remedies by either Party shall not constitute a waiver of the right to pursue other available remedies.

**VIII. TERM**

This Contract is effective as of July 1, 2020 and expires June 30, 2023, but may be terminated earlier in accordance with provisions of Section IX of the Contract. The Contract term may be extended for two (2) additional one-year periods by mutual agreement of the parties.

**IX. EARLY TERMINATION**

- A. The County may terminate the Contract as set forth below:
1. Immediately under the provisions of Section VII, Paragraph C, Item 5 of the Contract.

2. Without cause by either party by serving a written notice to the other party sixty (60) days in advance of termination; or
3. In the event of any of the following relating to Contractor's medical staff under this Contract, provided the subject staff member has not been immediately terminated and removed from providing services pursuant to this Agreement:
  - a. Contractor, or any of Contractor's medical staff becomes the subject of, or materially involved in any investigation, proceeding, or disciplinary action by: Medicare and or Medicaid program or any other Federal Health Care Program or state equivalent, Health Resources and Services Administration (HRSA) Office for Civil Rights, any state's medical board, any agency responsible for professional licensing or standards of behavior.
  - b. Contractor, or any of Contractor's medical staff's, license to practice medicine in any jurisdiction is suspended, revoked, or otherwise restricted.
  - c. Contractor, or any of Contractor's medical staff, is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Healthcare Program.
- B. The Assistant Executive Officer for Human Services is authorized to exercise the County's rights with respect to any termination of this Contract.
- C. Contractor shall only be reimbursed for costs and uncanceled obligations incurred prior to the date of termination. Contractor shall not be reimbursed for costs incurred after the date of termination.
- D. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

## **X. GENERAL PROVISIONS**

- A. When notices are required to be given pursuant to this Contract, the notices shall be in writing and mailed to the following respective addresses listed below.

Contractor: Faculty Physicians and Surgeons of LLUSM dba  
Loma Linda University Faculty Medical Group  
11175 Campus Street, Suite 11120  
Loma Linda, CA 92354

Contractor Copy to: Office of General Counsel  
Faculty Physicians and Surgeons of LLUSM  
27890 Tulip Avenue  
Loma Linda, CA 92354

County: (Program Information)  
Department of Public Health  
Attn: Jennifer Baptiste-Smith  
351 N. Mountain View Ave., Rm 303  
San Bernardino, CA 92415-0010

County: (Contract Information)  
County of San Bernardino  
Human Services  
Attn: Contracts Unit  
150 S. Lena Road  
San Bernardino, CA 92415-0515

- B. Nothing contained in this Contract shall be construed as creating a joint venture, partnership or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.
- C. Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate any contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

- D. Time is of the essence in performance of this Contract and each of its provisions. Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.
- E. County discourages the purchase of equipment with funds received under this Contract. All equipment, materials, supplies or property of any kind (including publications and copyrights, etc.) which have a single unit cost of five hundred dollars (\$500) or more, including tax, purchased with funds received under the terms of this Contract and not fully consumed in one (1) year shall be the property of County and shall be subject to the provisions of this paragraph. The disposition of equipment or property of any kind shall be determined by County upon Contract termination.
- F. County shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under the Contract including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of the Contract shall acknowledge San Bernardino County as the funding agency and Contractor as the creator of the publication. No such materials or properties produced in whole or in part under the Contract shall be subject to private use, copyright or patent right by Contractor in the United States or in any other country without the express written consent of County. Copies of all educational and training materials, curricula, audio/visual aids, printed material, and periodicals, assembled pursuant to the Contract must be filed with County prior to publication. Contractor shall receive written permission from County prior to publication of said training materials.
- G. All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the County upon payment for services (and product, if applicable). All such items shall be delivered to County at the completion of work under the Contract, subject to the requirements of Section VIII, Term. Unless otherwise directed by County, Contractor may retain copies of such items.
- H. No waiver of any of the provisions of the Contract shall be effective unless it is made in a writing which refers to provisions so waived and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under the Contract shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded

from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.

- I. Any alterations, variations, modifications, or waivers of provisions of the Contract, unless specifically allowed in the Contract, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both parties as an amendment to this Contract. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
- J. If any provision of the Contract is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the Parties) and the remaining provisions of the Contract shall not be affected.
- K. This Contract shall be governed by and construed in all aspects in accordance with the laws of the State of California without regard to principles of conflicts of laws. The Parties agree to the exclusive jurisdiction of the federal court located in the County of Riverside and the state court located in the County of San Bernardino, for any and all disputes arising under this Contract, to the exclusion of all other federal and state courts.
- L. In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.
- M. The parties actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity and enforceability of the remaining provisions shall remain in full effect.
- N. In the event that a subpoena or other legal process commenced by a third party in any way concerning the services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise proceed herein in connection with defense obligations by Contractor for County.

**XI. CONCLUSION**

- A. This Contract, consisting of nineteen (19) pages and Attachments A through C, is the full and complete document describing services to be rendered by Contractor to County, including all covenants, conditions, and benefits.
- B. The signatures of the Parties affixed to this Contract affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.
- C. IN WITNESS WHEREOF, the Board of Supervisors of the County of San Bernardino has caused this Contract to be subscribed to by the Clerk thereof, and Contractor has caused this Contract to be subscribed in its behalf by its duly authorized officers, the day, month, and year written.

COUNTY OF SAN BERNARDINO

Curt Hagman, Chairman, Board of Supervisors

Dated:

APR 07 2020

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

By

Lynna Monell  
Clerk of the Board of Supervisors  
of the County of San Bernardino  
Deputy

Faculty Physicians and Surgeons of LLUSM dba  
Loma Linda University Faculty Medical Group  
(Print or type name of corporation, company, contractor, etc.)

By

(Authorized signature - sign in blue ink)

Name

Ricardo Peverini, M.D.

(Print or type name of person signing contract)

Title

President

(Print or Type)

Dated:

03/26/2020

Address

11175 Campus Street, Suite 11120

Loma Linda, CA 92354

**FOR COUNTY USE ONLY**

Approved as to Legal Form

Adam Ebright, County Counsel

Date

3-27-20

Reviewed for Contract Compliance

Jennifer Mulhall-Daudel, HS Contracts

Date

3/27/2020

Reviewed/Approved by Department

Trudy Raymundo, Director

Date

3/27/20

*[Handwritten signature]*

1900



*[Faint handwritten text]*

### COMPLAINT AND GRIEVANCE PROCEDURE

**(Instructions: The participant is to read and receive the top portion of this form. The bottom portion of the form is to be signed by service recipient and placed in the contractor's records.)**

If you believe you have been discriminated against, or that there has been a violation of any laws or regulations, or if you have a problem regarding services received, you have the right to file a grievance.

The following procedures are to be followed when filing a grievance:

1. Identify the complaint/grievance in writing and discuss it with the contractor/service provider.  
Time frame: Within 1 week of discrimination/violation/problem.  
If resolved at this level, no further action is required. If no resolution is apparent within 10 calendar days, proceed with Step 2.

2. Forward the written complaint/grievance to the Department of Public Health (DPH) Program Staff.  
Time frame: Within 1 week of Step 1.

If resolved at this level, no further action is required. If no resolution is apparent within 20 calendar days, proceed with Step 3.

3. Forward the written complaint/grievance to DPH Administration at the following address:

Deputy Chief Community Health Services  
Department of Public Health  
351 N. Mt. View Avenue  
San Bernardino, CA 92415-0010

Time frame: Within 1 week of Step 2.

If resolved at this level, no further action is required.

4. If no solution is apparent after Steps 1-3 have been exhausted forward copy of written grievance to:

San Bernardino County Human Services, Contracts Manager  
150 S. Lena Road  
San Bernardino, CA 92415-0515

You will be contacted within 10 calendar days of any actions being taken. Please note: Each of these steps must be completed in the sequence shown.

.....  
**GRIEVANCE PROCEDURE CERTIFICATION**

This is to certify that I have read, understood, and received a copy of the San Bernardino County Human Services Grievance Procedure.

\_\_\_\_\_  
Signature of Service Recipient

\_\_\_\_\_  
Date

**LLUFMG INSURANCE REQUIREMENTS**

**Indemnity and Insurance**

Contractor agrees to indemnify, defend (with counsel approved by County) and hold harmless the County, its officers, employees, agents, and volunteers from any and all claims, losses, actions, damages and/or liability resulting from any negligent act or omission of Contractor, its officers, employees, agents or volunteers while performing its duties under this agreement/contract, including any costs or expenses incurred by County, except as prohibited by law.

County agrees to indemnify, defend (with counsel approved by Contractor), and hold harmless the Contractor, its officers, employees, agents and volunteers from any and all claims, losses, actions, damages and/or liability resulting from any negligent act or omission of County, its officers, employees, agents or volunteers while performing its duties under this agreement/contract, including any costs or expenses incurred by Contractor, except as prohibited by law.

In the event that the County and/or Contractor are determined to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under this agreement, the County and/or Contractor shall indemnify the other to the extent of its comparative fault.

Contractor may satisfy the following insurance requirements concerning General Liability insurance pursuant to a program of self-insurance. Contractor is an authorized self-insured entity for purposes of General Liability insurance and warrants it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligation of this Agreement.

**Additional Insured**

All policies, except for the Workers' Compensation, General Liability, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of Services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form 8) endorsement form ISO, CG 2010.11 85.

**Waiver of Subrogation Rights**

The Contractor shall require the carriers of the required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors, and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

**Policies Primary and Non-Contributory**

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

**Severability of Interests**

Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and County or between the County and any other insured or additional insured under the policy.

**Proof of Coverage**

Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of Services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of Services hereunder until the completion of such Services. Within fifteen (15) days of the commencement of this Contract, Contractor shall furnish a copy of the Declaration page for all applicable policies and make available complete certified copies of the policies and endorsements immediately upon request.

**LLUFMG INSURANCE REQUIREMENTS**

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

**Failure to Procure Coverage**

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, County will give written notice to Contractor of the failure to procure coverage. Contractor will then have 7 business days to respond before the County has the right but not the obligation or duty to cancel the Contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor(s)/Applicant(s) will be reduced to pay for County purchased insurance.

**Insurance Review**

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interest of the County. In addition, if Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change these insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt or the Contractor can give 60 days notice of termination of this agreement.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

**Insurance Specifications**

Contractor agrees to provide insurance set forth in accordance with the requirements herein. If Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in any way affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

**Workers' Compensation/Employers Liability**

A program of Workers' Compensation insurance or a State-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with two hundred and fifty thousand dollar (\$250,000) limits, covering all employees, providing Services on behalf of the Corporation and all risks to such persons under this Contract.

If Contractor has no employees, it may certify or warrant to County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

**Commercial/General Liability Insurance**

Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of Contractor for this contract, providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.

**LLUFMG INSURANCE REQUIREMENTS**

- c. Broad form property damage (including completed operations)
- d. Explosion, collapse and underground hazards.
- e. Personal Injury
- f. Contractual liability
- g. \$2,000,000 general aggregate limit

**Automobile Liability Insurance**

Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If Contractor is transporting one or more non-employee passengers in performance of Services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

**Umbrella Liability Insurance**

An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

**Professional Services Requirements**

**Professional Liability** - Contractor at its sole cost and expense, shall maintain professional liability insurance for services rendered by Contractor and each Physician in the Department in the minimum amount of \$1,000,000 per occurrence and \$3,000,000 in the annual aggregate from an insurance company which is acceptable to County. Group shall provide to Department a copy of the Certificates of Insurance evidencing the insurance coverage required under this Section.

If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the Contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after Contract completion.

**Cyber Liability Insurance** - Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall cover breach response cost as well as regulatory fines and penalties.

## CLOUD SERVICES REQUIREMENTS

### Software as a Service (SaaS)

This Cloud Services Requirements document establishes the terms and conditions applicable to the provision of services by Contractor to the County involving the use of hosted cloud computing services. County and Contractor agree that the following terms and conditions will apply to the services provided under this addendum and the underlying Agreement as applicable.

#### 1. DEFINITIONS:

- a) **"Software as a Service (SaaS)"** - The capability provided to the consumer is to use applications made available by the provider running on a cloud infrastructure. The applications are accessible from various client devices through a thin client interface such as a web browser or application. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
- b) **"Data"** - means any information, formulae, algorithms, or other content that the County, the County's employees, agents and end users upload, create or modify using the SaaS pursuant to this Agreement. Data also includes user identification information, Personally Identifiable Information and Protected Health Information.
- c) **"Data Breach"** - means any access, destruction, loss, theft, use, modification or disclosure of Data by an unauthorized party or that is in violation of Agreement terms and/or applicable state or federal law.

**2. SaaS AVAILABILITY:** Unless otherwise stated in the Agreement, Contractor shall ensure that the provider of Cloud Based services can meet the following requirements:

- a) The SaaS shall be available twenty-four (24) hours per day, 365 days per year (excluding agreed-upon maintenance downtime).
- b) Provide advance written notice to the County in the manner set forth in the Agreement of any major upgrades or changes that will affect the SaaS availability.

**3. DATA AVAILABILITY:** Unless otherwise stated in the Agreement, Contractor shall ensure that the provider of Cloud Based services can meet the following requirements:

- a) The Data shall be available twenty-four (24) hours per day, 365 days per year (excluding agreed-upon maintenance downtime).
- b) If Data monthly availability averages less than 99.9% (excluding agreed-upon maintenance downtime), for three (3) or more months in a rolling twelve-month period, the County may terminate the Agreement for material breach.

#### 4. DATA SECURITY:

- a) In addition to the provisions set forth in the Agreement, Contractor shall upon request from the County provide the following certifications regarding the cloud services utilized:
  - 1) The sufficiency of its security standards, tools, technologies and procedures in providing SaaS under this Agreement;
  - 2) Compliance with the following:
    - i. The California Information Practices Act (Civil Code Sections 1798 et seq.);
    - ii. Undergo an annual Statement on Standards for Attestation Engagements (SSAE) 16 Service Organization Control (SOC) 2 Type II audit. Audit results and the service provider's plan to correct any negative findings shall be made available to the County within thirty (30) business days of Contractor's receipt of such results, or upon request from the County.
- b) Contractor shall ensure its cloud service provider implements and maintains all appropriate administrative, physical, technical and procedural safeguards in accordance with section a) above at all times during the term of the Agreement to secure such Data from Data Breach, protect the Data and the SaaS from hacks, introduction of viruses, disabling devices, malware and other forms of malicious or inadvertent acts that can disrupt the County's access to its Data.

## ATTACHMENT C

- c) Contractor shall allow the County reasonable access to SaaS security logs, latency statistics, and other related SaaS security data that affect this Agreement and the County's Data, at no cost to the County. If Contractor does not have such records in its possession, it shall endeavor to obtain such records from its cloud service provider.
- d) Contractor assumes responsibility for the security and confidentiality of the Data under its control.
- e) No Data shall be copied, modified, destroyed or deleted by Contractor or its cloud service provider other than for normal operation or maintenance of SaaS during the Agreement period without prior written notice to and written approval by the County.
- f) Contractor shall provide access to Data only to those employees, contractors and subcontractors who need to access the Data to fulfill Contractor's obligations under this Agreement. Contractor will ensure that, prior to being granted access to Data, staff who perform work under this Agreement have all undergone and passed criminal background screenings; have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all data protection provisions of this Agreement; and possess all qualifications appropriate to the nature of the employees' duties and the sensitivity of the Data they will be handling.

**5. ENCRYPTION:** Contractor warrants that all Data will be encrypted in transmission (including via web interface) using Transport Layer Security (TLS) version 1.2 or equivalent and in storage at a level equivalent to or stronger than Advanced Encryption Standard (AES) 128-bit level encryption. Contractor shall ensure that its cloud services provider complies with this requirement.

**6. DATA LOCATION:** All Data will be stored on servers located solely within the Continental United States. Contractor shall ensure that its cloud services provider complies with this requirement.

**7. RIGHTS TO DATA:** The parties agree that as between them, all rights, including all intellectual property rights, in and to Data shall remain the exclusive property of the County, and Contractor has a limited, non-exclusive license to access and use the Data as provided to Contractor solely for performing its obligations under this Agreement. Nothing herein shall be construed to confer any license or right to the Data, including user tracking and exception Data within the system, by implication, or otherwise, under copyright or other intellectual property rights, to any third party. Unauthorized use of Data by Contractor or third parties is prohibited. For the purposes of this requirement, the phrase "unauthorized use" means the data mining or processing of data, stored or transmitted by the service, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security or service delivery analysis that is not explicitly authorized.

**8. TRANSITION PERIOD:**

- a) For ninety (90) days prior to the expiration date of this Agreement, or upon notice of termination of this Agreement, Contractor shall assist the County in extracting and/or transitioning all Data in the format determined by the County ("Transition Period").
- b) The Transition Period may be modified in the Agreement or as agreed upon in writing by the parties in a contract amendment.
- c) During the Transition Period, SaaS and Data access shall continue to be made available to the County without alteration.
- d) Contractor agrees to compensate the County for damages or losses the County incurs as a result of Contractor's failure to comply with this section.
- e) Unless otherwise stated in the Agreement, the Contractor shall permanently destroy or render inaccessible any portion of the Data in Contractor's and/or subcontractor's possession or control following the expiration of all obligations in this section. Within thirty (30) days, Contractor shall issue a written statement to the County confirming the destruction or inaccessibility of the County's Data. Contractor shall require the same for any cloud services provider utilized for hosting the County's Data.

**9. DISASTER RECOVERY/BUSINESS CONTINUITY:** Unless otherwise stated in the Statement of Work,

- a) In the event of disaster or catastrophic failure that results in significant Data loss or extended loss of access to Data, Contractor shall notify the County by the fastest means available and also in writing. Contractor shall provide such notification within twenty-four (24) hours after Contractor reasonably

believes there has been such a disaster or catastrophic failure. In the notification, Contractor shall inform the County of:

- 1) The scale and quantity of the Data loss;
  - 2) What Contractor has done or will do to recover the Data and mitigate any deleterious effect of the Data loss; and
  - 3) What corrective action Contractor has taken or will take to prevent future Data loss.
- b) If Contractor fails to respond immediately and remedy the failure, the County may exercise its options for assessing damages or other remedies.
- c) Contractor shall work with its cloud services provider to restore continuity of SaaS, restore Data, restore accessibility of Data, and repair SaaS as needed to meet the Data and SaaS Availability requirements under this Agreement. Failure to do so may result in the County exercising its option to terminate the Agreement.
- d) Contractor shall conduct an investigation of the disaster or catastrophic failure and shall share the report of the investigation with the County. The County and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Contractor shall cooperate fully with the County, its agents and law enforcement.

**10. EXAMINATION AND AUDIT:** Unless otherwise stated in the Agreement:

- a) Upon advance written request, Contractor shall obtain SaaS operational documentation and records, including online inspections that relate to the security of the SaaS product purchased by the County from its cloud services provider. The County shall have the right to inspect such documentation.
- a) After any significant Data loss or Data Breach or as a result of any disaster or catastrophic failure, Contractor will at its expense have an independent, industry-recognized, County-approved third party perform an information security audit. The audit results shall be shared with the County within seven (7) days of Contractor's receipt of such results. Upon Contractor receiving the results of the audit, Contractor will provide the County with written evidence of planned remediation within thirty (30) days and promptly modify its security measures in order to meet its obligations under this Contract.

**11. DISCOVERY:** Contractor shall promptly notify the County upon receipt of any requests which in any way might reasonably require access to the Data of the County or the Contractor's use of the SaaS. Contractor shall notify the County by the fastest means available and also in writing, unless prohibited by law from providing such notification. Contractor shall provide such notification within forty-eight (48) hours after Contractor receives the request. Contractor shall not respond to subpoenas, service of process, Public Records Act requests, and other legal requests directed at Contractor regarding this Agreement without first notifying the County unless prohibited by law from providing such notification. Contractor agrees to provide its intended responses to the County with adequate time for the County to review, revise and, if necessary, seek a protective order in a court of competent jurisdiction. Contractor shall not respond to legal requests directed at the County unless authorized in writing to do so by the County.

**12. DATA SEPARATION:** Data must be partitioned from other data in such a manner that access to it will not be impacted or forfeited due to e-discovery, search and seizure or other actions by third parties obtaining or attempting to obtain Contractor's cloud service provider's records, information or data for reasons or activities that are not directly related to the County's business.

