

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
STANFORD HOSPITAL AND CLINICS**

THIS AGREEMENT, entered into this ____ day of _____, 2009 by and between the COUNTY OF SAN MATEO, hereinafter called "County," and Stanford Hospital and Clinics, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of performing the professional services hereinafter described for the Health System, Emergency Medical Services.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

Exhibit A—Services

Exhibit B—Payments and rates

Attachment I—§ 504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit A.

Contractor represents and warrants that it has not been excluded, debarred, or otherwise made ineligible to participate in any Federal Healthcare program as defined in 42 USC § 1320a-7b(f). Contractor represents and warrants that it (i) is not currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 USC § 1320a-7b(f) (the "Federal healthcare programs"); (ii) is not convicted of a criminal offense related to the provision of healthcare items or services, but has not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal healthcare programs, and (iii) is not under investigation or otherwise aware of any circumstances which may result in being excluded from participation in the Federal healthcare programs. This shall be an ongoing representation and warranty during the terms of this Agreement and Contractor shall immediately notify the County of any change in the status of the representation and warranty set forth in this section. If Contractor becomes excluded from Federal program participation, this Agreement may be

terminated immediately by County for cause.

3. Designated Provider

The services which Contractor is obligated to perform pursuant to this Agreement will be performed by Gregory Gilbert, M.D (“Provider”). Dr. Gregory Gilbert will be assisted in his duties by Dr. Peter D’Souza (“Assistant Provider”). Services may not be substituted or delegated to any other agent of the Contractor without express written approval of the County Health System Chief.

4. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County’s total fiscal obligation under this Agreement exceed ONE HUNDRED TWO THOUSAND FIVE HUNDRED FORTY DOLLARS, \$102,540.

5. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from March 1, 2009 through February 28, 2010.

This Agreement may be terminated by Contractor, the Health System Chief or his/her designee at any time without a requirement of good cause upon thirty (30) days’ written notice to the other party.

If (i) either party receives notice of any Action (as defined below), and (ii) (A) the parties, acting in good faith, are unable to agree upon or make the amendments to this Agreement necessary to comply with the Action, or (B) the parties determine in good faith that compliance with the Action is impossible or infeasible, then either party may terminate this Agreement immediately upon giving written notice to the other.

For purposes of this section, "Action" shall mean any legislation, regulation, rule or procedure passed, adopted or implemented by any governmental or legislative body or agency or other third party, or any notice of a decision, finding or action by any governmental or private agency, court or other third party which, in the reasonable and good faith opinion of either counsel to either party, if or when implemented, would (i) revoke or jeopardize the status of any license or permit granted to either party or any of its affiliates, (ii) revoke or jeopardize the federal, state or local tax-exempt status of either party or any of its affiliates, or (iii) subject either party, or any of its employees or agents, to civil or criminal prosecution or liability on the basis of their participation in executing this Agreement or performing their obligations under this Agreement.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for

work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

6. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the county learns of said unavailability of outside funding.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees. Neither Contractor nor County intend that any payments made under this Agreement be in return for the referral of ongoing business, if any, or in return for the purchasing, leasing, or ordering of any services other than the specific services described in this Agreement. All payments specified in this Agreement are consistent with what the parties reasonably believe to be a fair market value for the services provided.

8. Hold Harmless

8.1 County shall defend, indemnify and hold harmless Contractor, and its respective officers, employees and agents, and Provider harmless from and against any and all liability, loss, expense, or claims for injury or damages arising out of the performance of this Agreement but only in proportion to, and to the extent such, liability, loss, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of County, its officers, employees, or agents.

8.2 Contractor shall defend, indemnify and hold harmless County, its officers, employees and agents harmless from and against any and all, liability, loss, expense, or claims for injury or damages arising out of the performance of this Agreement but only in proportion to, and to the extent such, liability, loss, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Contractor, Provider and their respective officers, employees, or agents.

8.3 In the event or concurrent negligence of Contractor, its officers and/or employees, and County, its officers and/or employees, then the liability for any and all claims for injuries or damages to persons and/or property which arises out of the terms and conditions of this Agreement shall be apportioned under the California theory of comparative negligence as established presently, or as may be hereafter modified.

9. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County’s prior written consent shall give County the right to automatically and immediately terminate this Agreement.

10. Insurance

10.1 As additional consideration for Contractor’s services, County agrees that it will provide general liability and professional medical liability coverage for the services and activities that Contractor will provide pursuant to this Agreement. County, at its option and cost, shall insure all activities of itself and Contractor for services provided under the agreement pursuant to a program of self-insurance, as follows:

- a. General Liability Insurance with a limit of Two Million Dollars per Occurrence \$2,000,000

- b. Professional Medical Liability Insurance with limits of Two Million Dollars (\$2,000,000) per occurrence and Five Million Dollars (\$5,000,000) general aggregate. \$5,000,000

- c. It is understood that the coverage limits described in 10.1(a) and (b) above are the minimum limits and shall in no way limit the liability of the County.

10.2 Contractor and County shall each maintain Workers’ Compensation Insurance for the activities of their respective employees under this Agreement as required under state law and such other insurance in such amounts which from time to time may reasonably be required by the mutual consent of County and Contractor against other hazards relating to performance. Stanford University, the employer of Provider, shall maintain Workers’ Compensation Insurance for Provider.

11. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Federal Regulations promulgated thereunder, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment “I,” which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this

Agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

12. Non-Discrimination and Other Requirements

Section 504 applies only to Contractors who are providing services to members of the public.

Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.

General non-discrimination. No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.

Equal employment opportunity. Contractor shall ensure compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

Violation of Non-discrimination provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:

- i) termination of this Agreement;
- ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph.

Compliance with Equal Benefits Ordinance. With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

13. Compliance with Contractor Employee Jury Service Ordinance

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service.

14. Retention of Records, Right to Monitor and Audit

- a. CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.
- b. Reporting and Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State, and local agencies, and as required by the COUNTY.
- c. CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

15. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

16. Controlling Law

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

17. Use of Names and Logos

Neither party may use the name, logo or corporate identity of the other party for any purpose without the prior written consent of the entity whose name, logo or corporate identity is proposed to be used; provided, however, that nothing herein shall prohibit Provider or County from using County's or Stanford's name solely to identify the Provider's status as a current member of the medical staff or faculty. Both parties understand and agree that:

- a. Any use of the other party's name requires the prior written approval of the other party and, in the case of Contractor and Stanford, of the Dean of the Stanford University School of Medicine or his designee;
- b. Any restrictions on the use of the name that may be imposed from time to time shall be applicable to the other party's use of the name;

- c. The use of the name by the other party is subject to termination, and that any such termination shall effect a termination of the right to use the name; and
- d. Either party has the right to terminate, with or without cause, the other party's right to use the name upon 30 days prior written notice to the other party.

18. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United State mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

In the case of County, to:

**San Mateo County
Emergency Medical Services
Attention: Barbara Pletz
225 37th Avenue
San Mateo, CA 94403**

In the case of Contractor, to:

**Stanford Hospital and Clinics
300 Pasteur Drive
Stanford, CA 94305-5317
Attention: Jenni Vargas, VP Business Development**

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

Stanford Hospital and Clinics

Jenni Vargas, VP Business Development

Date: _____

Approved as to content:

Robert Norris, M.D.
Chief, Division of Emergency Medicine

Exhibit "A"

In consideration of the payments set forth in Exhibit "B", Contractor shall provide the following services:

Contractor is responsible for making available Provider to provide administrative and medical direction of the Emergency Medical Services System, in accordance with Division 2.5 of the California Health and Safety Code and Division 9 Title 22 of the California Administrative Code. All services under this Agreement must be provided by Provider.

Duties will include, but not be limited to, the following:

1. Providing administrative and medical oversight and direction to the emergency medical services system, including but not limited to, emergency medical dispatch, first responder paramedic program, emergency and non-emergency ambulance services, patient destination, trauma system, emergency medical services for children, and all other emergency medical services elements;
2. Participating as a key participant in clinical quality improvement activities;
3. Developing medical protocols and policies for all components of the emergency medical services system;
4. Reviewing medical incidents and making recommendations regarding outcomes;
5. Acting as emergency medical services liaison with local physicians;
6. Attending emergency medical services meetings such as Medical Advisory Committee, Quality Leadership Committee, Emergency Medical Care Committee, and the 911 Contract Oversight Committee.
7. Representing County at state and local meetings as requested by County
8. Actively participating in the Emergency Medical Directors' Association of California;
9. Directing research relative to emergency medical services in the County; and
10. Providing medical consultation to other divisions of the Health Department as requested regarding issues such as bioterrorism, all hazards emergency management, pandemic influenza, and emergency medical protocols for clients in various county facilities.

Provider is a full time employee of Stanford University. 37.5% of Provider's time, as a University employee, will be dedicated to services provided under this Agreement.

Exhibit "B"

In consideration of the services provided by Contractor in Exhibit "A", County shall pay Contractor based on the following fee schedule:

- A. Contractor shall be paid for work performed at a rate of EIGHT THOUSAND TWO HUNDRED NINETY FIVE DOLLARS (\$8,295.00) per month for services rendered. As discussed in Schedule A of the Agreement, Provider is a full time employee of Stanford University. At least 37.5% of Provider's time as an employee of Stanford University will be dedicated to services provided under this Agreement. Contractor will submit a summary of work performed monthly which will be submitted with invoices.
- B. Contractor shall submit monthly invoices by the fifteenth (15th) working day of each month for reimbursement of the actual costs for services (including any indirect costs associated with providing services) of the preceding month. All costs incurred under this Agreement shall be due and payable only after services have been rendered and in no case in advance of such services. No costs shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by County as being in accordance with this Agreement.

A final closing invoice, clearly marked "FINAL," shall be submitted no later than forty-five (45) calendar days following the closing date of this Agreement, and shall include only those costs incurred during the referenced period of performance. If the invoice is not received within forty-five (45) calendar days following the closing date of the Agreement, Contractor waives any right to additional payment for the services it has provided.

- C. In addition to payments for work described in Paragraph A. above, whenever Provider is required to travel outside of the County in performance of his duties under this Agreement, County will reimburse Provider's and Assistant Provider's travel to a maximum of THREE THOUSAND DOLLARS (\$3,000) per year, provided, however, that all air travel, lodging, and meeting expenses are pre-approved by the Emergency Medical Services Administrator and all claims must be accompanied by receipts of meetings and travel expenses. Travel reimbursement will be limited to air, rail, bus, urban mass transit, and overnight lodging. Amount for overnight lodging shall not exceed ONE HUNDRED FIFTY DOLLARS (\$150) per night. Provider and Assistant Provider shall submit separate invoices for travel reimbursement claims.

- D.** County shall make all payments to “Stanford Hospital and Clinics” and shall send such payments to Contractor to the following address:

Stanford University Medical Center
Division of Emergency Medicine
701 Welch Road, Building C
Palo Alto, CA 94304-5777
Attention Dolly Kagawa

In any event the total amount for services of Contractor shall not exceed ONE HUNDRED TWO THOUSAND FIVE HUNDRED FORTY DOLLARS (\$102,540) for the term of this Agreement. County shall have the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable.